R-8

Assigned

Name Windhurst Road Water Corporation

By

Address P.O. Box 503
Bandon, OR 97411

Date filed September 6, 1988

Priority

Action suspended until C19

Return to applicant

Date of approval

CONSTRUCTION

Date for beginning

Date for completion

Extended to

Date for application of water

Extended to 10-1-2014, 10-30-2019

PROSECUTION OF WORK

Form "A" filed

Form "B" filed

Form "C" filed

FINAL PROOF

Blank mailed

Proof received

Date certificate issued

to HEARING

Application No. R-69708 E

Permit No. R 12928

Certificate No.

Stream Index, Page No. 17-2276
SEE 69654

17-1510.0200.0080

FEES PAID

Date	Amount	Receipt No.
9-6-88	200.00	56038
6-2-94	$1,500.00	112726
3/9/09	350.00	95825
9/22/14	575.00	113493
2/1/16	85.00 Cert. Fee	118784

FEES REFUNDED

Date	Amount	Check No.
MI 8/15-95	1,250.00	000222

ASSIGNMENTS

Date	To Whom	Address	Volume	Page
Assigned				
2-1-16	Windhurst Subdistrict c/o Bandon Cranberry Water Control District	P.O. Box 1832 Bandon, OR 97411		
2-1-16	Northwest Farm Credit Services, FLCA	2222 NW Kline St. Roseburg, OR 97471 AND		
	Windhurst Road Watering Corporation	P.O. Box 503 Bandon, OR 97411		

REMARKS

Date	Amount	Receipt
2/1/16	85.00	118784
7-8-2021	670.00	135796
9-13-2021	110.00	136401
12-20-2021	480.00	137128
1-25-24	$780.00	142292
9-5-24	$780.00	143723

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # 136401

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIVED FROM: Bandon Cranberry Water Control District
BY:

APPLICATION	R-69708
PERMIT	
TRANSFER	

CASH: ☐ CHECK:# ☒ 1787 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D $ 110.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	$
_____	OTHER: (IDENTIFY) _____	$

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

46111

MISCELLANEOUS

0407	COPY & TAPE FEES	$
0410	RESEARCH FEES	$
0408	MISC REVENUE: (IDENTIFY) _____	$
TC162	DEPOSIT LIAB. (IDENTIFY) _____	$
0240	EXTENSION OF TIME	$ 110.00

WATER RIGHTS:

		EXAM FEE		RECORD FEE
0201	SURFACE WATER	$	0202	$
0203	GROUND WATER	$	0204	$
0205	TRANSFER	$		

WELL CONSTRUCTION

		EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	$	0219	$
	LANDOWNER'S PERMIT		0220	$

_____ OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	$	CARD#	
0210	MONITORING WELLS	$	CARD#	

_____ OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)		$
0231	HYDRO LICENSE FEE (FW/WRD)		$
_____	HYDRO APPLICATION		$

_____ TREASURY OTHER / RDX

FUND _____ TITLE _____
OBJ. CODE _____ VENDOR # _____
DESCRIPTION _____ $

RECEIPT: 136401 DATED: 9-13-2021 BY: Mindy Carden

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BANDON CRANBERRY WATER 1787

Oregon Dept Water Resources

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
8/18/2021	Bill	HB2142	110.00	110.00		110.00
					Check Amount	110.00

8/18/2021

RECEIVED
SEP 13 2021
OWRD

Windhurst Sub Accou Ref: R-69708 and S-69654; Permit R-12928 an 110.00

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # 143723

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIVED FROM: Bandon Cranberry Water
BY: _____

APPLICATION	R-69708
PERMIT	
TRANSFER	

CASH: ☐ CHECK:# ☒ 1934 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D $ 480.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	$
_____	OTHER: (IDENTIFY) _____	$

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT 47235

MISCELLANEOUS

0407	COPY & TAPE FEES	$
0410	RESEARCH FEES	$
0408	MISC REVENUE: (IDENTIFY) _____	$
TC162	DEPOSIT LIAB. (IDENTIFY) _____	$
0240	EXTENSION OF TIME	$

WATER RIGHTS:

		EXAM FEE		RECORD FEE
0201	SURFACE WATER	$	0202	$
0203	GROUND WATER	$	0204	$
0205	TRANSFER	$		

WELL CONSTRUCTION

		EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	$	0219	$
	LANDOWNER'S PERMIT		0220	$
0223	OTHER (IDENTIFY) Protest			$480.00

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)		$
0231	HYDRO LICENSE FEE (FW/WRD)		$
_____	HYDRO APPLICATION		$

_____ TREASURY OTHER / RDX

FUND _____ TITLE RECEIVED
OBJ. CODE _____ VENDOR # OVER THE COUNTER
DESCRIPTION _____ $

RECEIPT: 143723 DATED: 9/5/24 BY: _____

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STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # 143723

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIVED FROM: Bandon Cranberry Water
BY: _____

APPLICATION	R-69708
PERMIT	
TRANSFER	

CASH: ☐ CHECK:# ☒ 1934 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D $ 480.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES $
_____ OTHER: (IDENTIFY) _____ $

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT 47235

MISCELLANEOUS

0407 COPY & TAPE FEES $
0410 RESEARCH FEES $
0408 MISC REVENUE: (IDENTIFY) _____ $
TC162 DEPOSIT LIAB. (IDENTIFY) _____ $
0240 EXTENSION OF TIME $

WATER RIGHTS:

0201 SURFACE WATER — EXAM FEE $ — 0202 — RECORD FEE $
0203 GROUND WATER — EXAM FEE $ — 0204 — RECORD FEE $
0205 TRANSFER — EXAM FEE $

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR — EXAM FEE $ — 0219 — LICENSE FEE $
LANDOWNER'S PERMIT — 0220 — LICENSE FEE $
0223 OTHER (IDENTIFY) Protest $480.00

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD) $
0231 HYDRO LICENSE FEE (FW/WRD) $
_____ HYDRO APPLICATION $

_____ TREASURY OTHER / RDX

FUND _____ TITLE RECEIVED
OBJ. CODE _____ VENDOR # OVER THE COUNTER
DESCRIPTION _____ $

RECEIPT: 143723 DATED: 9/5/24 BY: _____

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BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON

IN THE MATTER OF THE APPLICATION FOR AN EXTENSION OF TIME FOR PERMIT R-12928, WATER RIGHT APPLICATION R-69708 IN THE NAME OF WINDHURST SUBDISTRICT C/O BANDON CRANBERRY WATER CONTROL DISTRICT; AND NW FARM CREDIT SERVICES, FLCA	PROTEST OF APPLICANT WINDHURST SUBDISTRICT C/O BANDON CRANBERRY WATER CONTROL DISTRICT, NORTHWEST FARM CREDIT SERVICES, FCLA, AND WINDHURST ROAD WATERING CORPORATION; REQUEST FOR CONTESTED CASE HEARING CONTESTED CASE REQUESTED

Pursuant to OAR 690-315-0060(1), Windhurst Subdistrict c/o Bandon Cranberry Water Control District, Northwest Farm Credit Services, FCLA, and Windhurst Road Watering Corporation (Applicant) protests the Proposed Final Order Denial (PFO) issued by the Oregon Water Resources Department (OWRD) on July 23, 2024, a copy of which is attached hereto as Exhibit 1. The PFO was issued in response to the Application for Extension of Time (Application) submitted by Applicant on January 25, 2024, attached hereto as Exhibit 2. The PFO recommends denial of the Application.

1. Petitioner/Applicant's Name, Address, and Telephone Number.

Petitioner/Applicant's contact information is as follows:

Windhurst Subdistrict c/o Bandon Cranberry Water Control District & NW Farm Credit Services, FLCA
P.O. Box 1832
Bandon, OR 97411
(541) 297-6292
jkcranberries@yahoo.com

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Orders, notices, and other correspondence concerning this matter should be sent to legal counsel representing Applicant in this matter, as follows:

Dominic M. Carollo
Email: dcarollo@carollolegal.com
Carollo Law Group LLC
Mail: P.O. Box 2456
Roseburg, OR 97470
Office: 2315 Old Highway 99 South
Roseburg, OR 97471
Ph: (541) 957-5900

2. Applicant's Interest in the PFO.

Applicant has a direct and immediate interest in the outcome of the Application. The Application seeks an extension of time to allow Applicant to fully satisfy all conditions of Applicant's permit (Permit R 12928), and store the full 614 acre-feet ("AF") specified in the permit terms. *See* Exhibit 3. The PFO would impair Applicant's interest in making full beneficial use under the permit by denying Applicant's an extension of time to apply water to full beneficial use. The PFO further impairs Applicant's interests by making findings that one of Applicant's reservoirs is not in a lawful location. Exhibit 1 at 4. The PFO would therefore cost Applicant the significant time, money, and resources spent developing storage under the permit through the construction of reservoirs, investments in materials and equipment required for the satisfaction of permit terms, the expense of surveying the storage capacity of constructed reservoirs under the permit and submitting a new extension application, and the lost economic opportunity cost of achieving full beneficial use under the permit. *See* Exhibit 2 at 6—7, 9—10 (summary of expenses and investments into Permit R 12928). Applicant therefore objects to OWRD's proposed denial of the Application, and requests that OWRD issue a Final Order approving Applicant's request for an extension of time.

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3. Summary of Facts.

A lengthy background precedes this protest. There are two water right permits which are relevant to this matter, both of which were issued by OWRD on October 10, 2000. The first is Permit R 12928, which is directly at issue here. Permit R 12928 was borne out of a need for more water by the cranberry farms located along and near Windhurst Road in Bandon, Oregon. In order to facilitate expansions of their operations, OWRD approved Permit R 12928. This permit authorizes the storage of 614 AF annually from 23 small reservoirs spread across multiple property owners. Exhibit 3.

Permit S 53703—which is not at issue here—is the right which is related to Permit R 12928, authorizing the use of the 614 AF of stored water for cranberry operations on 162.4 acres, agricultural use on 27.7 acres, and supplemental cranberry operations on 18.1 acres. *See* Exhibit 4. Permit S 53703 is entirely reliant on the existence of Permit R 12928, and cannot exist without Permit R 12928's storage.

Permit R 12928 and Permit S 53703 were both approved by OWRD on October 10, 2000. The two permits have proceeded on parallel tracks since then, receiving multiple extensions of time given the complexity and scope of the projects, involving the construction of numerous reservoirs, cranberry bogs, water transmission and distribution infrastructure, and more across multiple landowners. On September 13, 3021 Applicant's representatives submitted applications for extensions of time for both Permit R 12928 and Permit S 53703 ("2021 applications"). *See* Exhibit 5; Exhibit 7 at 1. These 2021 applications explained the progress Applicant had made towards completion of the permits during the last extension period. *See* Exhibit 5 at 7. For Permit R 12928, this included digging the Manicke Reservoir, finishing the Bee Sting Reservoir (not including lining), enlarging Scherer reservoirs #1 and #2, installing water meters and staff gauges,

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running water lines, and more. *Id.* The 2021 applications also explained that three prominent property owners important to the permit area—W. Scherer, R. Haga, and F. Richert—had passed away recently. *Id.* at 11. All three of these landowners were chiefly involved with the application process for Permits R 12928 and S 53703, and the development of these permits, and their passing was a substantial step back in the permit development process. *See, e.g.*, Exhibit 6. Finally, the 2021 applications provided financial estimates of the amount of contribution and investment which had already been put towards the full completion of Permits R 12928 and S 53703. *See* Exhibit 5 at 6—10.

OWRD, finding that Applicant had exercised diligence and good cause in the development of the appropriation authorized by Permit S 53703, granted an extension of time for that permit on January 28, 2022. *See* Exhibit 7. However, Permit R 12928 reached a different result than its related right. On November 23, 2021 OWRD issued a proposed final order ("2021 PFO") finding that Applicant had exercised diligence and good cause, but nevertheless recommending the rejection of Applicant's 2021 application for extension of time based on certain misstatements in that application. *See* Exhibit 8. On July 7, 2023, OWRD issued a final order ("2023 FO") denying Applicant's 2021 application pertaining to Permit R 12928. *See* Exhibit 9.

The 2023 FO denying Applicant's requested extension of time of Permit R 12928 stemmed from a mistake in the 2021 application. The 2021 application provided dates and costs illustrating the progress which was being made towards applying Permit R 12928 to its full beneficial use. *See* Exhibit 5. However, Applicant mistakenly stated that the maximum volume stored annually to date under Permit R 12928 at the time of the 2021 application was 614 AF—full beneficial use. *Id.* at 8. The 2021 application also stated that all conditions of the permit were currently met. *Id.* at 10. The 2021 PFO relied on these mistakes within the 2021 application to find that an extension of

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time was not necessary because Permit R 12928 was being applied to its full beneficial use, and therefore instructed Applicant to submit a Claim of Beneficial Use under the permit. *See* Exhibit 8 at 4. Applicant submitted a protest in the time allowed after the 2021 PFO (*see* Exhibit 10), and communicated with OWRD regarding the mistakes in the 2021 extension application (*see* Exhibit 11). In substance, Applicant sought to explain that Permit R 12928 was not actually completed yet, and had not reached full beneficial use. Following its communications with OWRD, Applicant was directed to determine the current storage actually available under Permit R 12928. Applicant hired a Certified Water Rights Examiner ("CWRE") to survey the progress which had been made towards the permit, and the quantity of water which was not yet being stored under the permit. Although Applicant submitted a timely protest no hearing was held on the 2021 application.

The 2023 FO correctly recognized that Applicant had not yet brought Permit R 12928 up to full beneficial use. *See* Exhibit 9 at 2. The 2023 FO found that Applicant could store 553 of 614 AF under the permit based on the current work that had been completed. *Id.* However, OWRD concluded based on this storage amount that Applicant was not acting with diligence and good cause in the completion of Permit R 12928, and therefore denied the 2021 application for extension of time. *Id.* ,

Following a Petition for Reconsideration of the 2023 FO (Exhibit 12), Applicant was instructed by OWRD to file a new, clean application for extension of time, using the storage volume calculated by Applicant's CWRE (Exhibit 21). After receiving the new Application for extension of time (Exhibit 2), OWRD issued the PFO at issue in this protest. The PFO proposes that OWRD deny Applicant's requested extension. Exhibit 1 at 9. Upon analysis of various mandatory factors for extension applications, the PFO found that there was not "good cause" for the extension. *Id.* at 8. This determination was based on OWRD's proposed findings that Applicant

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had not demonstrated reasonable diligence in its performance under Permit R 12928, and that Applicant had not demonstrated good faith. In particular, the PFO found that reasonable diligence was lacking due to the errors of prior extension applications, which had incorrectly stated that 614 AF was being stored under Permit R 12928. *Id.* at 4—8. The PFO also disregarded work done, and investments made, on the S-1 reservoir, finding that such work and investment is irrelevant to reasonable diligence because S-1 is not an authorized reservoir under Permit R 12928. *Id.* at 4. The PFO further found that there was not evidence of good faith in the extension Application, again due to the prior misstatements regarding completed reservoir storage in past extension applications. *Id.* at 8. The PFO also found that there were no other governmental requirements that have delayed perfection of Permit R 12928. *Id.* at 7. Finally, the PFO did not make findings regarding the effect of unforeseen events, or the undue hardship that would result if an extension were not allowed. *Id.*

4. Legal Authority.

The applicant or a person aggrieved by a proposed final order on an extension application may submit a written protest within 45 days of the date of publication of the proposed order. OAR 690-315-0060(1). The Water Resources Director must schedule a contested case hearing if the applicant requests such a hearing within 30 days following the close of the period for submitting protests.

In contested cases "[n]o sanction shall be imposed or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party, and as supported by, and in accordance with, reliable, probative and substantial evidence." ORS 183.450(5). The proponent of a fact or position has the burden of proof on that fact or position by a preponderance of the evidence. ORS 183.450(2).

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ORS 537.230(4) states that:

> For good cause shown, [OWRD] shall order and allow an extension of time, including an extension beyond the five-year limit established in subsection (2) of this section within which irrigation or other works shall be completed or the right perfected. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

The considerations described in ORS 539.010 (5) are "the cost of the appropriation and application of the water to a beneficial purpose, the good faith of the appropriator, the market for water or power to be supplied, the present demands therefor and the income or use that may be required to provide fair and reasonable returns upon the investment."

OAR Chapter 690, Division 315, implements and expands upon ORS 537.230. OAR 690-315-0040(1) states that, for OWRD to approve an application for extension of time, it must find that the applicant has submitted a completed application, the applicant has begun construction on the project, the applicant can complete the project within the time period requested for the extension, and there is good cause to approve the extension. OAR 690-315-0040(2) further describes the criteria OWRD must consider when evaluating good cause, which includes but is not limited to:

> (a) Whether the applicant has demonstrated reasonable diligence in previous performance under the permit;
> (b) The cost to appropriate and apply the water to a beneficial purpose;
> (c) The good faith of the appropriator;
> (d) The market for water or power to be supplied;
> (e) The present demands for water or power to be supplied;
> (f) The income or use that may be required to provide fair and reasonable returns on investment;
> (g) Whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection the right;
> (h) Any unforeseen events over which the water right permit holder had no control and which delayed development under the permit;
> (i) Whether denial of the extension will result in undue hardship to the applicant and that there are no other reasonable alternatives exist for meeting water use needs; and
> (j) Any other factors relevant to a determination of good cause.

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OAR 690-315-0040(3) requires that OWRD evaluate additional factors when considering reasonable diligence, including:

> (a) The amount of construction completed within the time allowed in the permit or previous extension;
> (b) The amount of beneficial use made of the water during the permit or previous extension time limits;
> (c) Water right permit holder conformance with the permit or previous extension conditions; and
> (d) Financial investments made toward developing the beneficial water use.

5. Assignments of Error.

The PFO errs in multiple respects. First, the PFO errs by finding that prior extension applications incorrectly stating that 614 AF had been stored under Permit R 12928 was indicative of a lack of reasonable diligence and good faith. Second, the PFO errs by disregarding work done, and investments made, on S-1 reservoir on the incorrect belief that S-1 is not an authorized reservoir. Third, the PFO errs by disregarding other governmental requirements that have delayed perfection of Permit R 12928. Finally, the PFO errs by not making findings regarding the effect on unforeseen events on the perfection of Permit R 12928, and the undue hardship that would result if Applicant's extension request were denied. For these reasons, and as explained below, Applicant requests that OWRD reject the PFO's proposed findings, and issue a final order granting Applicant's extension.

A. Incorrect Statements of Exiting Reservoir Storage Volume in Past Extension Applications are not Evidence of a Lack of Reasonable Diligence and Good Faith.

Applicant acknowledges that there has been confusion regarding the amount of beneficial use made under Permit R 12928 based on prior extension applications. *See* OAR 690-315-0040(3) ("reasonable diligence" factors include the amount of beneficial use made pursuant to the permit). In Applicant's 2014 extension application (Exhibit 13), Applicant stated that 614 AF had been

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stored to date. However, the 2014 application also described the additional work needed to complete water development under Permit R 12928, explaining that Applicant would need to finish Manicke reservoirs, enlarge Scherer reservoirs 1 and 2, complete Bee Sting Reservoir, and finish construction of Richert reservoirs 1 and 2. *Id.* at 9. Thus, while the 2014 application's statement of acre-feet stored to date may have been misleading, the 2014 application clearly indicated that Applicant anticipated making significant developments in storage volume during the extension period. Indeed, while the 2014 PFO (Exhibit 14) acknowledged that the 2014 application indicated 614 AF of storage, the 2014 PFO's conclusions of law stated that "full application of water to beneficial use can be accomplished by October 30, 2019[.]" There seemed to be no confusion on OWRD's part that Applicant had not yet achieved full beneficial use under Permit R 12928 at the time of the 2014 application.

The 2021 application similarly contained a misstatement regarding storage volume. In the 2021 application, Applicant again mistakenly stated that 614 AF had been stored. *See* Exhibit 5 at 8. However, the 2021 application acknowledged that Bills Creek LLC (successor to W. Scherer) would be constructing and consolidating reservoirs during the extension period, indicating that Applicant still needed to complete additional work to achieve full beneficial use. *See id.* at 9. When the 2021 PFO relied on Applicant's misstatement regarding storage volume to find that "full beneficial use of water has been demonstrated" (Exhibit 8 at 4), Applicant was diligent in working with OWRD to clear up any confusions (*see* Exhibit 11). Applicant acknowledged that prior statements regarding reservoir capacity were "philosophically miss-guided without professional counseling," and sought to correct these mistakes. *See* Exhibit 11 at 4. OWRD's Mr. Dwight French therefore proposed that Applicant complete a survey of existing reservoir storage volume under Permit R 12928, and provide that survey to OWRD in "completion" of the extension

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application. *Id.* at 1. Applicant carried out Mr. French's proposal, and hired a CWRE to survey existing storage volume, clearing up the past confusion based on previous applications.

The PFO wrongly focuses on the past applications' misstatements regarding reservoir storage volume, without recognizing Applicant's efforts to work with OWRD in correcting any confusion. Regarding reasonable diligence, the PFO focuses on the difference between the (misstated) 614 AF of storage volume listed in the 2014 application, and the (corrected) 564.15 AF of storage described in the pending Application. Exhibit 1 at 3—5. However, as stated above, in 2014 OWRD acknowledged that full beneficial use (storage of 614 AF) had not been accomplished, regardless of the 2014 application's misstatements. *See* Exhibit 14 at 6. And, Applicant has made a good-faith effort to work with OWRD to correct any confusions regarding storage volume. *See* Exhibit 11. The misstatements aside, Applicant has demonstrated a capability to store over 90 percent of the volume authorized by Permit R 12928. Exhibit 2 at 8; Exhibit 3. And, in the last extension period, Applicant finished extending Manicke ponds, enlarged Scherer reservoirs, constructed (but did not line) Bee Sting Reservoir, and dug Manicke Reservoir 1. Exhibit 2 at 7. In sum, nearly all the work Applicant sought to complete in the 2014 extension period *was completed*, despite significant challenges such as the passing of numerous property owners[1] and depressed cranberry prices[2]. *Compare* Exhibit 13 at 9 *with* Exhibit 2 at 7. Rather than focus on misstatements regarding storage volume, which had no material effect on reasonable diligence, Applicant urges OWRD to evaluate the work actually completed during the past extension period, which shows that Applicant has diligently sought to complete all work

[1] *See infra* Section D.

[2] A sharp decline in cranberry prices between 2012 and 2013, followed by stagnant low prices through 2019 and only a recent price rebound made it exceedingly difficult to develop Permit R 12928. *See* Joseph Raymond, Too Many Cranberries (Nov. 25, 2020) https://asmith.ucdavis.edu/news/too-many-cranberries.

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authorized under Permit R 12928. Misstatements from past applications are not a relevant factor under OAR 690-315-0040(3), and an evaluation of the relevant factors indicates that Applicant has faithfully demonstrated reasonable diligence. Applicant therefore respectfully requests that OWRD modify the PFO, and issue a final order finding that Applicant has diligently worked to complete Permit R 12928.

With respect to the "good faith" factor of OAR 690-315-0040(2), the PFO finds that the 2014 application may not have been granted if not for the misstatement regarding storage volume. The PFO specifically states that "[i]f accurate information was submitted on the Application for Extension of Time submitted September 26, 2014, the Department may not have approved the Extension of Time to October 30, 2019." Exhibit 1 at 8. However, as Applicant explains above, OWRD recognized that full beneficial use was not achieved at the time of the 2014 application. Exhibit 14 at 6. At most, the misstatement in the 2014 application regarding storage volume was harmless error; it played no role in OWRD's proposed conclusions of law. Rather, OWRD approved the 2014 application with the express recognition that Applicant would be increasing the volume stored under Permit R 12928 by constructing and modifying multiple reservoirs. *Id.* The PFO is therefore incorrect that OWRD may not have approved the 2014 extension were in not for the misstatement regarding storage volume—a misstatement which appeared to play no deciding role in the 2014 application's approval. Evidence of good faith is found in Applicant's efforts to work with OWRD to correct inaccuracies in the volume stored. Once again, Applicant was forthright with OWRD about the misstatement in the 2014 and 2021 applications regarding storage volume, sought direction from OWRD regarding how to fix that misstatement, and then adhered to the proposal of Mr. Dwight French by hiring a CWRE to survey the reservoirs completed under Permit R 12928, and determine existing storage volume. *See* Exhibit 11. When OWRD then

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directed Applicant to file a new, clean application (Exhibit 21), Applicant did just that, utilizing the surveyed storage volume in the new Application as directed by OWRD. *See* Exhibit 2 at 8. Applicant's honest and faithful adherence to the directives of OWRD is demonstrative of good faith. Applicant therefore respectfully requests that OWRD modify the PFO, and issue a final order finding that Applicant has worked in good faith to complete Permit R 12928.

The reasonable diligence and good faith of Applicant is not tainted by past misstatements regarding storage volume. Applicant therefore requests that OWRD's final order on the pending Application recognize that Applicant has satisfied the reasonable diligence and good faith factors of OAR 690-315-0040.

B. Applicant's Work and Investment in S-1 Reservoir is Relevant to Reasonable Diligence.

The PFO errs by disregarding Applicant's work on S-1 reservoir on the grounds that S-1 reservoir is not authorized under Permit R 12928. *See* Exhibit 1 at 4. The PFO is correct that S-1 reservoir is constructed at a location which differs slightly from that specified in Permit R 12928. However, the Agreement and Stipulated Final Order between Applicant, the Oregon Department of Fish and Wildlife ("ODFW"), and OWRD (Exhibit 15) acknowledged that Applicant's reservoir locations may be subject to slight changes. In that Agreement, the parties stipulated that Applicant would construct 23 off-channel reservoirs to store water from Bill Creek for use in cranberry operations. *See* Exhibit 15 at 2. The Stipulated Final Order acknowledged that "minor modification to place of use and type of use, as described on the attached draft permit, may occur as a result of the map revision." *Id.* at 5.

At the time Permit R 12928 was granted, Applicant and the existing watermaster, John Youngquist, acknowledged that there may be differences between the permitted locations of reservoirs, and the actual locations of reservoirs. When Permit R 12928 was granted many of the

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proposed reservoir locations were still heavily timbered, and Applicant had not evaluated the suitability of every reservoir location. As reservoirs were constructed, it was determined that some (like Scherer #1) were not viable. This prompted Applicant to construct S-1, a replacement of Scherer #1, in a viable location. However, materially S-1 is no different from Scherer #1; the source of water (Bill Creek) is unchanged, and S-1 remains an off-channel reservoir. Moreover, when Applicant understood that S-1 would need to deviate slightly from permit terms, Applicant went directly to Mr. Dwight French to discuss this issue. *See* Exhibit 16. Applicant asked how much leeway was allowable regarding the actual versus permitted location of a reservoir, explaining that it was unclear whether a permit amendment was necessary. *Id.* Mr. French explained that, "[a]s for reservoirs being in a different location: No clear cut answer – we'll review on a case by case basis. If it was supposed to be excavated off channel and is still off channel there's some leeway from OWRD." *Id.* at 1. Here, a "case by case" analysis demonstrates that leeway should be allowable for S-1. S-1 is still located very near the permitted location, as it has been dug in the NW ¼ NE 1/4 of Section 5 (*see* Exhibit 17), rather than the *SW* ¼ NE 1/4 of Section 5 (*see* Exhibit 3 at 5). Furthermore, S-1 reservoir is still off-channel, exactly as required for Scherer #1.

The weight of the evidence indicates that S-1 reservoir is a direct and permissible replacement of Scherer #1. It was acknowledged by Mr. French that minor changes in reservoir location may be permissible, and here that is exactly what has occurred. Therefore, Applicant's diligent work and investment in S-1 reservoir can—and must—be considered in the pending Application. Applicant respectfully requests that OWRD modify the PFO, recognize that S-1 is an authorized reservoir, and find that Applicant's work and investment on S-1 is evidence of good cause for an extension of time.

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C. Governmental Requirements Have Delayed Perfection of Permit R 12928.

"Whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection the right" is a "good cause" factor under OAR 690-315-0040. The pending Application explained that "ODF&W has requested improvement to diversion of Bill Creek. We have entered into a cost share project to improve the diversion which will move it slightly. Project scheduled to be completed in 2022, however has yet to be completed. This has delayed completion of the [claim of beneficial use." Exhibit 2 at 11. In the PFO, OWRD's finding states that "this request from Oregon Department of Fish and Wildlife is not an additional governmental requirement which prevented the complete development because; 1) the point of diversion on Bill Creek was previously developed with different equipment, and 2) there is no evidence provided that the improvement is required." Exhibit 1 at 7.

OWRD's finding in the PFO is in error. The improvement required to the Bill Creek diversion concerns the diversion's fish screen. As ODFW acknowledged, the previous Sure-Flo screen on the pump intake at Bill Creek "failed almost immediately due to the high flows and large amounts of debris that the site regularly experiences." *See* Exhibit 18 at 19. Therefore, ODFW concluded that "the preferred solution is to install a screened vault within the bank, which will be much less susceptible to high-flow damage." *Id.* Additionally, ODFW stated that it "considers the stream to be a high priority for screening due to the presence of listed coho." *Id.*

Modification of the fish screen at the Bill Creek pump intake is a governmental requirement that must be met before Permit R 12928 may be perfected. Looking again at the Agreement and Stipulated Final Order between Applicant, OWRD, and ODFW, it was agreed that Applicant "shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion … The required screens and, if necessary fishways, shall be in place, functional, and approved by

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the Oregon Department of Fish and Wildlife before diversion of any water." Exhibit 15 at 3. The PFO is therefore wrong to conclude, in effect, that work on the fish screen at the Bill Creek intake is *not* an other-governmental requirement. Maintenance of an ODFW-approved fish screen is an express requirement of the Agreement and Stipulated Final Order. Therefore, given that the prior Sure-Flo screen failed, prompting a cost-sharing program between ODFW and Applicant in the development of a better screening system, any delays and expenses caused by work on the fish screen is relevant to the pending Application. Applicant respectfully requests that OWRD modify the PFO to find that there are other governmental requirements which have delayed construction and perfection of Permit R 12928, supporting the extension Application.

D. The PFO Errs by Not Making Findings Concerning Unforeseen Events or Undue Hardship.

While unforeseen events and undue hardships are factors OWRD *must* consider when evaluating extension applications, here OWRD failed to make findings regarding the effects of unforeseen events, or the presence of undue hardship.

The pending Application explained that the passing of three property owners—W. Scherer, F Richert and R. Haga—were unforeseen events that have delayed perfection of Permit R 12928. *See* Exhibit 2 at 11. Furthermore, the owner of the Scherer property has changed hands multiple times in the past years. *Id.* Rather than make findings regarding the *effect* of these unforeseen events, the PFO merely acknowledges that previous permit holders of record had passed away. *See* Exhibit 1 at 7. This is insufficient, as OAR 690-315-0040(2)(h) *mandates* that OWRD consider both the *existence* of unforeseen events and the *effect* of unforeseen events on the development of the permit. Here, the effect of the unforeseen events is substantial. A significant portion of the work which needed to be completed (and was completed) during the last extension cycle affected Scherer and Haga's properties. *See* Exhibit 2 at 7. Of the 23 reservoirs to be completed under this

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permit, four were Haga reservoirs, eight were Scherer reservoirs, and five were Richert reservoirs. *See* Exhibit 3. The passing of these property owners delayed work on Permit R 12928 significantly. The impact of these property owners' passing cannot truly be understated, as these property owners were intimately involved in this water rights permitting process from its inception, playing key roles in the permits as they exist today. *See* Exhibit 6 (1996 supplement sheet describing each reservoir under permit was sent to R. Haga, W. Scherer, and F. Richert, who had been involved in the permit application process).

Furthermore, the PFO did not make findings regarding whether undue hardship would result. *See* OAR 690-315-0040(2)(i) (requiring OWRD to consider undue hardship under the "good cause" factors). Rather than make findings regarding undue hardship, the PFO merely states that Applicant "asserts a denial would result in undue hardship." Exhibit 1 at 7. OWRD should modify the PFO to find that undue hardship *will* result. The water right file for Permit S 53703 reveals that the cranberry farmers relying on Permit R 12928 will not be able to get water anywhere else to satisfy Permit S 53703. Prior to the permit applications there was serious concern about water availability in Bill Creek, Bear Creek, and the Coquille River, which resulted in the need for additional storage. *See* Exhibit 19; Exhibit 20. Permit S 53703 originally sought water from these sources in addition to water stored under Permit R 12928, but pursuant to a settlement became limited to the 614 AF stored under Permit R 12928. *See, e.g.*, Exhibit 15. If Windhurst's Application for extension of time is denied and they are prohibited from applying Permit R 12928 to full beneficial use, the cranberry farms reliant on this storage will be unable to receive replacement water from another source. This is undue hardship, which weighs in favor of a finding of "good cause," and approval of the pending Application.

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6. Requested Relief and Request for Hearing.

Applicant requests that OWRD modify the PFO in a Final Order which finds and concludes that Applicant has satisfied the factors for an extension of time under OAR 690-315-0040, and approve the pending Application.

If OWRD does not grant Applicant's pending Application, Applicant requests a contested case hearing, including opportunities for full discovery and offering evidence, including live testimony, on all relevant and material issues.

OAR 690-315-0060(3) allows OWRD to hold a contested case on an application for an extension of time where the applicant has submitted a protest. If OWRD still has concerns or misunderstandings in light of this Protest, Applicant suggests that a contested case hearing may be warranted to clear up these issues.

7. Protest Fee.

The required fee of $480 as required by ORS 536.050(j)(B) is included with this protest.

8. Conclusion.

Applicant respectfully requests that OWRD grant the pending Application for extension of time to perfect Permit R 12928.

Dated this 4th day of September, 2024.

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Oregon Water Resources Department

Water Right Services Division

Application for Extension of Time

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In the Matter of the Application for an Extension of Time for Permit R-12928, Water Right Application R-69708 in the name of Windhurst Subdistrict c/o Bandon Cranberry Water Control District; and NW Farm Credit Services, FLCA

) PROPOSED
) FINAL
) ORDER DENIAL

Permit Information

Application:	R-69708
Permit:	R-12928
Basin:	South Coast / Watermaster District 15
Date of Priority:	September 6, 1988 for 100.0 AF; June 1, 1994 for 514.0 AF
Source of Water:	Bill Creek, a tributary of Bear Creek
Storage Facilities:	23 reservoirs being Windhurst: Haga 1, 2, 3, 4; Bee Sting; Scherer 1, 2, 3, 4, 5, 6, 7, 8; Manicke 1, 2, 3, 4; Richert 1, 2, 3, 4, & 5
Purpose of Use:	to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614 acre-feet (AF) each year, being 470 AF in Windhurst, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5
Maximum Rate:	2.75 cubic feet per second (cfs) maximum combined rate between Permits R-12928, and S-53703

Please read this Proposed Final Order in its entirety.

In summary, the Department proposes to:

- Deny an extension of time to apply water to full beneficial use from October 30, 2019, to October 1, 2025.

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

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ACRONYM QUICK REFERENCE
Department – Oregon Water Resources Department
PFO – Proposed Final Order
AF - acre-feet

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AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(2) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefor; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides that in order to approve an application for an extension of time to complete construction or apply water to full beneficial use, the Department shall make the findings in OAR 690-315-0040(1) including a finding that there is "good cause" to approve the extension. OAR 690-315-0040(2)-(4) contain the factors that the Department must consider to make findings that support a "good cause" determination.

FINDINGS OF FACT

1. On October 10, 2002, Permit R-12928 was issued by the Department. The permit authorizes the storage of up to 614 AF of water each year, being 470 AF in Windhurst, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5 from Bill Creek, a tributary of Bear Creek, to be appropriated under Permit S-53703 for cranberry operations. The permit specified complete application of water was to be made on or before October 1, 2005.

2. On February 1, 2016, an assignment from Windhurst Road Watering Corporation, to Windhurst Subdistrict c/o Bandon Cranberry Water Control District, Northwest Farm Credit Services, FCLA, and Windhurst Road Watering Corporation was recorded in the records of the Water Resources Department for R-12928.

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3. Two prior permit extensions have been granted for Permit R-12928. The most recent extension resulted in the completion dates for full application of water being extended to October 30, 2019.

4. On January 25, 2024, John Roth, chairman of Windhurst Subdistrict c/o Bandon Cranberry Water Control District; and NW Farm Credit Services, FLCA, submitted an "Application for Extension of Time" to the Department, requesting the time to apply water to full beneficial use under the terms of Permit R-12928 be extended from October 30, 2019 to October 1, 2025.

5. Notification of the Application for Extension of Time for Permit R-12928 was published in the Department's Public Notice dated February 13, 2024. Comments were received by WaterWatch of Oregon. The comments submitted are in opposition to an extension of time.

Review Criteria [OAR 690-315-0040]

In order to approve an application for an extension of time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction, pursuant to ORS 537.248, the Department must make the findings in OAR 690-315-0040(1)(a) – (d).

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

6. On January 25, 2024, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

7. According to the Application, construction of Windhurst Reservoir began in 1998.

Based on FOF 7, the Department has determined the permit holder has satisfied the condition requiring beginning of construction of the water works.

Good Cause [OAR 690-315-0040(1)(d)]

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

In order to make a finding of "good cause" to approve the extension, the Department shall consider whether the applicant has demonstrated "reasonable diligence" in previous performance under the permit. OAR 690-315-0040(2)(a). In determining "reasonable diligence", the Department shall consider, but is not limited to, the following factors: a) The amount of construction completed within the time allowed in the permit or previous extension; b) The amount of beneficial use made of the water during the permit or previous extension time limits; c) Water right holder conformance with the permit or previous extension conditions; and d) Financial investments made toward developing the beneficial use of water.

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Amount of Construction [OAR 690-315-0040(3)(a)]
The amount of construction completed within the time allowed in the permit and previous extensions.[1]

8. Construction of the water system began prior to the permit issuance.

9. According to previous Applications for Extension of Time, work was accomplished during the original development timeline provided in the permit, and previous extension periods. The Application for Extension of Time, submitted September 26, 2014, identified that the full volume of 614.0 AF of water had been stored.

10. According to the current Application for Extension of Time, work accomplished during the period between October 1, 2014, and October 30, 2019, included the installation of staff gages, installed new water meters, and dug an extension to a previously developed reservoir.

11. Since October 30, 2019, the Application identifies construction of a replacement Scherer Reservoir (S-1), and associated water lines. S-1 Reservoir is not an authorized reservoir under Permit R-12928, as it is constructed at a location that is not authorized by the permit. The most recent Application also identifies replacement of a pump on Bill Creek.

12. Based on previous Applications for Extension of Time, it is unclear what work was accomplished when as the information provided historically has not been accurate.

Compliance with Conditions [OAR 690-315-0040(3)(c)]
The water right permit holder's conformance with the permit and previous extension conditions.

13. The Department has considered the permit holder's compliance with conditions, and did not identify any concerns.

Based on FOF 13, the Department has determined that the permit holder has demonstrated compliance with permit conditions.

Beneficial Use of Water [OAR 690-315-0040(3)(b)]
The amount of beneficial use made of the water during the permit or previous extension.

14. According to the Application for Extension of Time, submitted September 26, 2014, the full authorized volume of 614.0 AF of water had been stored.

15. According to the current Application, a maximum volume of 564.15 AF of water has been stored from the Bill Creek, a tributary of Bear Creek, in 23 separate reservoirs.[2]

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[1] **"Actual Construction"** is defined in OAR 690-315-0020(3)(d)(A)and(B) as physical work performed toward completion of the water system which demonstrates the water right permit holder's good faith and intention to complete the project with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land or planting crops.

[2] Individual storage volumes provided in a document submitted with the Application for Extension of

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The Department has determined that beneficial use of water has likely been demonstrated by October 30, 2019.

Financial Investments to appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]

16. The Application identifies an investment of approximately $1,934,467, however this included costs associated with replacement of an existing pump, which is considered maintenance, the costs associated with hiring a consultant to help determine the volume of water stored and is not considered work towards the development of the beneficial use, and the costs to construct S-1 Reservoir, which is not an authorized reservoir under this permit. After deducting these costs, the permit holder has invested approximately $1,838,967. The Application identifies an additional $91,000 investment is needed for the completion of this project, however these costs estimates include the cost to replace previously installed staff gages, and deepening S-1 Reservoir, which is not an authorized reservoir under this permit.

The Department has determined an investment has been made in the development of the beneficial use under this permit.

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

The record related to this permit establishes that though work has been accomplished under the permit, the previous assertions by the permit holder that the full volume of water had been stored by 2014, including the Application for Extension of Time submitted on September 13, 2021, which was subsequently withdrawn after the Department issued a Final Order to deny the extension. The permit holder continued to develop additional storage after the Department denied an extension because the Application identified that the full volume of water had been stored. Considering the full record pertaining to Permit R-12928, the Department has determined the applicant has not demonstrated reasonable diligence in previous performance under Permit R-12928.

The Market and Present Demands for Water [OAR 690-315-0040(4)(a-f)]

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

- *(a)The amount of water available to satisfy other affected water rights and scenic waterway flows;*
- *(b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);*

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- *(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;*
- *(d) Economic investment in the project to date;*
- *(e) Other economic interests dependent on completion of the project; and*
- *(f) Other factors relevant to the determination of the market and present demands for water and power.*

OAR 690-315-0040(4)(a)
The amount of water available to satisfy other affected water rights and scenic waterway flows.

17. A review of the amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-12928; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an Application for a new water right is submitted.

18. Current Water Availability Analysis for the Bear Creek, (Tributary to Coquille River) at the mouth (watershed ID 70230) show that no water is available during the months of August, September and October at the 50% exceedance level.

OAR 690-315-0040(4)(b)
Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).

19. The points of diversion are located on Bill Creek, a tributary of Bear Creek, and is not located within an ORS 538 Withdrawn Area.

20. Bill Creek, a tributary of Bear Creek is not located within or above a state or federal scenic waterway.

21. The point of diversion is in a location listed by the Department of Environmental Quality as a water quality limited stream. Bear Creek, Watershed Unit (1st through 4th order streams) listed under Water Quality Limited for BioCriteria, Dissolved Oxygen, and Temperature.

OAR 690-315-0040(4)(c)
The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.

22. Bill Creek, a tributary of Bear Creek is located within an area ranked "highest" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife.

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OAR 690-315-0040(4)(d)
Economic interests dependent on completion of the project.

23. An approximate total of $1,838,967 has been invested in the project.

OAR 690-315-0040(4)(e)
Other economic interests dependent on completion of the project.

24. Individual families utilize water from this permit for their cranberry operations.

OAR 690-315-0040(4)(f)
Other factors relevant to the determination of the market and present demand for water and power.

25. No other factors relevant to the determination of the market and present demand for water and power have been identified.

Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

26. The use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

27. The Application identifies a request from Oregon Department of Fish and Wildlife to improve the point of diversion on Bill Creek as an additional governmental requirement which delayed the development under the permit.

The Department has determined that this request from Oregon Department of Fish and Wildlife is not an additional governmental requirement which prevented the complete development because; 1) the point of diversion on Bill Creek was previously developed with different equipment, and 2) there is no evidence provided that the improvement is required.

Unforeseen Events [OAR 690-315-0040(2)(h)]

28. The Application identifies the previous permit holders of record had all passed away in previous years.

29.

Denial of an Extension Would Result in Undue Hardship [OAR 690-315-0040(2)(i)]

30. The Application asserts a denial would result in an undue hardship.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

31. The Application and the record does not provide evidence of good faith of the appropriator.

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The Department has determined that the record and the Application do not provide evidence of good faith of the appropriator. The Department has determined that previous Applications for Extension of Time submitted to the Department asserted that full development of the permit had been completed, and that the only work left to be accomplished was the installation of the required staff plates. It was based on these previous Applications for Extension of Time that the Department made a determination of good faith and reasonable diligence of the appropriator, enough to provide the previous extension of time to October 30, 2019. If accurate information was submitted on the Application for Extension of Time submitted September 26, 2014, the Department may not have approved the Extension of Time to October 30, 2019.

Duration of Extension [OAR 690-315-0040(1)(c)]

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

32. As of January 25, 2024, the permit holder states the remaining work to be completed consists of completing expanding S-1 Reservoir, which is not an authorized reservoir under the permit, lining of Bee Sting Reservoir, and the installation of replacement staff gages.

The Department has determined that the permit holder has not demonstrated reasonable diligence or good faith in the development of the authorized use under the permit, and therefore an extension of time is not allowable.

Good Cause *[OAR 690-315-0040(1)(d)]*

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has not shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

CONCLUSIONS OF LAW

1. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).

2. The application established that there has not been reasonable diligence or good faith of the permit holder. The permit holder has not shown that good cause exists for an

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extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Deny the time to apply water to beneficial use under Permit R-12928 from October 30,2019 to October 1, 2025.

DATED: July 23, 2024

Dwight French, Administrator
Water Right Services Division

If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.

Protests

Pursuant to OAR 690-315-0060(1), the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. Protests must be received by the Water Resources Department no later than **September 6, 2024,** at this address: Oregon Water Resources Department, Water Right Services Division, 725 Summer St NE, Suite A, Salem, OR 97301-1266. Protests may not be submitted by electronic mail. OAR 690-002-0025(3).

Protests must be in writing and include all of the following:

- The name, address, and telephone number of the protestant
- A detailed description of the protestant's interest in the proposed final order, and, if the protestant claims to represent the public interest, a precise statement of the public interest represented
- A detailed description of how the action proposed in the proposed final order would impair or be detrimental to the protestant's interest
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency
- If the applicant protests, a statement of whether a hearing is requested
- Citation of legal authority supporting the protestant, if known
- Proof of service of the protest on the water right permit holder, if protestant is other than the water right permit holder, and
- If you are the applicant, the protest fee of $480 required by ORS 536.050; and

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- If you are not the applicant, the protest fee of $950 required by ORS 536.050.

Within 60 days after the close of the period for requesting a contested case hearing, the Director shall either issue a final order on the extension request, or schedule a contested case hearing if a protest has been submitted, and, upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or, the applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests. The hearing will be conducted as provided in Oregon Revised Statutes (ORS) Chapter 183, and Oregon Administrative Rules (OAR) 137-003-0501 to 137-003-0700.

If the applicant does not request a hearing within 30 days after the close of the protest period, or if the request for a hearing is withdrawn, or the Department or the administrative law judge is notified that the protestant will not appear, or the protestant fails to appear, at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

A party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-8260, or the nearest United States Armed Forces Legal Assistance Office through http://legalassistance.law.af.mil.

- If you have any questions about statements contained in this document, please contact Jeffrey D. Pierceall at (503) 979-3213.
- If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Will Davidson at 503-507-2749.
- If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
- Address any correspondence to : Water Right Services Division
  725 Summer St NE, Suite A
  Fax: 503-986-0901 Salem, OR 97301-1266

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Application for

Extension of Time for a Water Right Permit (NON-Municipal/ NON-Quasi-Municipal)

OREGON WATER RESOURCES DEPARTMENT
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

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Criteria for a Permit Extension of Time

The Department can accept requests for an extension of time on permits to (1) complete construction, and/or to (2) apply water to beneficial use.

In order to approve a permitextension request the Department must be able to find:

1) **Construction has begun:**

   A. **For Groundwater Permits**
   Construction of the well(s), *authorized by the permit*, began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

   B. **For Surface Water or Reservoir Permits**
   Construction of the water system began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

The Department will also confirm that:

2) If required, a fish screen, fish passage or fish by-pass device was installed before or prior to diversion of any water. An exception to the need to confirm installation prior to diversion of any water would be a waiver submitted to the Department from ODFW stating that a fish screen, fish passage or fish by-pass device was not required, provided your permit allows for a waiver.

If you have questions, please call the Department at (503)-986-0900 and ask to speak with a permit extension specialist.

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TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT
A separate extension application must be submitted for <u>each</u> permit as per OAR 690-315-0020(2).

I, Windhurst Subdistrict c/o Bandon Cranberry Water Control Dist. & NW Farm Credit Services, FLCA
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

P.O. Box 1832	Bandon	OR	97411
ADDRESS	CITY	STATE	ZIP

541-297-6292 PHONE

[redacted]cranberries@yahoo.com E-MAIL ADDRESS

the permit holder of: Application Number R-69708

Permit Number R-12928
[OAR 690-315-0020(3)(b)]

do hereby request that the date by which the water development will be completed and water put to full beneficial use, which time now expires on Month:10Day: 30 Year: 2019, be extended to October 1,2025, *[OAR 690-315-0020(3)(i)]*

I am the permit holder, and may apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

John Roth — Signature
01-20-24 C.J. — Date
John Roth — Printed Name
Chairman — Title

The agent below is authorized to represent the applicant in all matters relating to THIS application. _____ Permit Holder Initials

_____ Authorized Agent (Print Agent Name)
_____ Agent contact

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Before submitting your Application for Extension of Time, make sure the following items are included:

- This completed Application for Extension of Time.
- Statutory fee of $780
- Signature page (Second page of this Application for Extension of Time).
- Letter granting an agent authority to act on behalf of the permit holder (*if applicable*)
- All supporting documentation and/orevidence referenced in the Application for Extension of Time. (ODFW Fish screen approval or waiver, contract for stored water, etc)

MAIL COMPLETED APPLICATION
along with the Supporting documents and/ or evidence and correct fee to:

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Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

GENERAL TIPS:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form**. The correct form is APPLICATION FOR EXTENSION OF TIME FOR MUNICIPAL AND QUASI-MUNICIPAL WATER USE PERMITS.

- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. **Should this request be approved, it will be OWRD's expectation that you will** complete your project within the new time period allowed. Future extensions may not be granted.

- A separate APPLICATION FOR EXTENSION OF TIME must be submitted for each permit. OAR 690-315-0020(2).

- Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at the State of Oregon, Secretary of State Website. To be granted an extension of time, the Department must make four specific findings; 1) the application is complete, 2) construction of the water system began within the time specified in the permit and applicable statute, 3) there is good cause, and 4) the project can be completed within the time being requested. If the Department cannot make all four findings, the extension of time cannot be approved.

- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 690-315-0020(3)(n).

- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights Services Division.

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- An Application for an Extension of Time will be reviewed for completeness. A response is required for each item contained in the application. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- **The water right permit.** If needed, a copy of the water right permit can be downloaded from the Department's Website,or, a copy of the permit may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).

- **Previous Applications and Orders.** Copies of previous applications and orders that may inform the completion of the Application for Extension of Time, if available, may be downloaded from the Department's Website. **NOTE: If the document requested is not available on the Department's website, you may be required to submit a Public Record Request.**

- **Documentation which demonstrates compliance with permit conditions** (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Questions to complete this application for an Extension of Time
Please see the instruction sheet to help you answer these items.

1. **Beginning Construction within required deadlines.** OAR 690-315-0020(3)(d)

For Groundwater Permits

Has construction of the point of appropriation (well) authorized under this permit begun? ☐ **Yes** ☐ **No**

Date construction began Month: Day: Year:

Details of construction and attach documentation:

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For Surface/Reservoir Permit

Has construction of the water system begun? ☒ **Yes** ☐ **No**

Date construction began Month: Day: Year: 1998

Details of construction and attach documentation: begin construction of Windhurst Reservoir

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OAR 690-315-0020(3)(A)(e)(A)

2a. Permits typically contain standard or special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column are contained within it. Using the extra row labeled "other" to specify any other additional conditions included in the permit, orspecified in a final order approving a permit amendment or prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check "Yes" if you have completed or met the permit condition.Check "No" if the condition is not yet satisfied. In the 4thcolumn, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation. Note: a pump test condition does not need to be addressed here however; you must submit the results of the test to the Department for approval prior to certification.

CHART-A

Permit Conditions in this Permit		Have Completed or Met?	Date satisfied/ or will be satisfied
Checkbox	Ground water Check those included on this permit		
☐	Installation of a meter/totalizing flow meter	☐ Yes ☐ No	
☐	Submittal of annual water usage report	☐ Yes ☐ No	
☐	Submittal of static water level measurements in the month required	☐ Yes ☐ No	
☐		☐ Yes ☐ No	
☐	Special well construction standards	☐ Yes ☐ No	
☐	Submittal of a monitoring plan	☐ Yes ☐ No	
☐	Well ID tag assigned and installed:	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
	Surface Water or Reservoir		
☒	Installation of a meter/ totalizing flow meter	☒ Yes ☐ No	2001
☒	Submittal of annual water use report	☒ Yes ☐ No	2001
☒	Installation of a fish screen	☒ Yes ☐ No	2002
☐	Installation of a fish by-pass device	☐ Yes ☒ No	NA
☐	Installation of a fish passage	☐ Yes ☒ No	NA
☒	Installation of an outlet gate/pipe/ conduit	☒ Yes ☐ No	1999
☒	Submittal of a letter from ODFW that fish screen, fish by-pass device, and or fish passage is not required	☒ Yes ☐ No	2002
☒	Submit as-built plans and specification	☒ Yes ☐ No	
☒	Submittal of a letter from an engineer prior to storage	☒ Yes ☐ No	2002
☒	Other (Specify): Cycle outlet each year	☒ Yes ☐ No	2002 on
☒	Other (Specify): Staff gages installed in all constructed reservoirs	☒ Yes ☐ No	2015 some need replacement
☒	Other (Specify): Weir and staff gage installed in Bill Cr. Staff gage installed on Bear Creek.	☒ Yes ☐ No	1998-2000

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2b. If you have identified that you have NOT complied with Permit conditions, explain the reasons why and indicate a date certain, when you will be in compliance.

some staff gagers need to be replaced and staff gage installed on reservoir constructed after last completion date. Will be done by September 2024

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[OAR 690-315-0020(3)(e)]

3. Provide evidence of physical work made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B); and if applicable, within the time period of the most recent extension granted (CHART-C).CHART-B (below) must be completed for all Application for Extension of Time requests. *Use chronological order.* Itemize each work item, and do not combine multiple work actions in one area.(Planning, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land, or planting crops***is not** considered work in the development of the water system. **Work accomplished under other water rights may not be considered work under this permit.**)

CHART-B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED *List any work done before the permit was issued – eg. well drilled.*	COST*
	See Attachment A	$1,714,500.00
DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER *List work/actions done during the permitted time period.*	COST*
10/10/2000	**Date the permit was signed** - find date above signature on last page of permit.	
2000	Staff Gage installed on Bear Cr.	$1,000.00
2001	Install pump, electrical and valves for Windhurst Reservoir	$12,050.00
2001	Weir and Staff Gage installed on Bill Creek. Totalizing meter installed at Bill Cr. POD	$3,500.00
2001	Partial excavation of Haga Reservoir 1	$4,000.00
2002	On site geologist during filling of Windhurst Reservoir	$7,500.00
2002	Fish Screen installed on Bill Creek	$2,617.00
2003	Complete Haga reservoir 1 and construct reservoir 5 (estimate)	$8,000.00
2004	Partial excavation of Scherer Reservoir 2	$4,000.00
10/1/2005	**Date the permit specified complete application of water to the use shall be made**- all permits contain this date.	
DATE	WORK ACCOMPLISHED AFTER the date the permit specified complete application of water and prior to any previous extension order *COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR AN EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.*	COST*
	Total Cost for Chart-B	$1,744,667.00

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* If exact cost is not known, you must provide your best estimate.

4. If this is not your 1st Application for Extension of Time request, fill out CHART-C below in addition to CHART-B above. *Use chronological order.*

CHART-C

DATE	WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD *List all work done during the last authorized extension period.*	COST*
10/1/2014	**"Extended From" date for complete application of water used in the most recent Final Order on Extension of Time.**	
2014	Final Engineering certification completed	$7,500.00
2014-2019	Manicke – Extension to 50% of ponds to finish	$10,000.00
2014-2019	Scherer-install staff gages after 2014 harvest, enlarge reservoirs	$11,000.00
2014-2019	Haga-install staff gages after 2014 harvest, Finish on Bee Sting Reservoir	$21,000.00
2015	Install new water meters	$3,600.00
2017	Run water line to Bee Sting Reservoir	$6,500.00
2018	Dig Manicke Reservoir extension of #1	$7,800.00
10/30/2019	**"Extended To" date for complete application of water resulting from the most recent Final Order on Extension of Time.**	
DATE	**WORK ACCOMPLISHED AFTER THE LAST EXTENSION PERIOD EXPIRED** *List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.*	**COST***
1/20/2020	Replace Bill Creek pump	$5,000.00
2/5/2020	Install pump protection	$3,900.00
7/19/2022	Hire CWRE to assist in determining total storage (at request of WRD)	$4,000.00
2022	Construction of Scherer replacement reservoir (S-1)	$30,000.00
2022	Water line to new reservoir(S-1) plus labor to install and water meter	$16,500.00
2023	Purchase liner for Bee Sting Reservoir	$15,000.00
2023	Pump station and power to it S-1 reservoir	$40,000.00
	Total Cost of Chart-C	$197,800

* If exact cost is not known, you must provide your best estimate.[OAR 690-315-0020(3)(f)]

5. Cost of project to date: $1,934,467.00
(The total combined cost from CHART-B and CHART-C) [OAR 690-315-0020(f)]

[OAR 690-315-0020(3)(e)(B)]
Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit made to date.

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TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

6. For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

TIP: Report the rate in the same units of measurement as specified in the permit.

Maximum rate used to date = _____cfs (cubic feet per second) *or,*

Maximum rate used to date = _____gpm (gallons per minute) *or,*

Maximum volume of stored water used to date = _____AF or,

Maximum volume stored annually to date = 564.15 (estimated) AF

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7. For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment?	Maximum instantaneous rate used to date from this well - - under thispermit only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total instantaneous rate from all wells utilized under this permit								

8. Has a Permit Amendment Application been filed? Yes☐ No☒
If yes, identify Transfer No. T-_____

[OAR 690-315-0020(3)(e)(C)]

9. For Irrigation and Nursery Use Permits Extensions

Provide the total number of acres irrigated to date under this permit.

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a) Total acres irrigated to date:_____

b) List by year, the number of acres irrigated each year since permit issuance.

Year	Acres	Year	Acres	Year	Acres

c) Provide a copy of the application map identifying the acres irrigated.

d) Please specify the number of acres irrigated by each Point of Diversion/Point of Appropriation (POD/POA).

(POD/POA)#_____ Acres_____ (POD/POA) #_____ Acres_____

(POD/POA) #_____ Acres_____ (POD/POA) #_____ Acres_____

[OAR 690-315-0020(3)(i)(j)]

10. In the chart below provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2025	Install new point of diversion with fish screen on Bill Cr. (by ODF&W)	$70,000.00
2024	Install replacement staff gages	$3,000.00
2024	Line Bee Sting Reservoir and fill it (labor and equipment)	$6,000.00
2024-5	Deepen reservoir S-1	$12,000.00
Year: 2025	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
	Total Cost	$91,000.00

[OAR 690-315-0020(3)(g)]

11. Estimated remaining cost to complete the project: $91,000.00

(The total cost from CHART-E)

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[OAR 690-315-0020(3)(j)]

12. Provide a summary of your plan to complete construction, meeting all permit conditions and apply the water to beneficial use: *(List all tasks or steps needed to complete the project, the date when each task will be completed, and the cost associated with each task; attach additional pages if necessary.)* Staff gages will be replaced as necessary in 2024. Bee Sting Reservoir to be lined by end of 2024 and deepen reservoir S-1 and install staff gage in reservoir S-1.

See Chart E for costs

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[OAR 690-315-0020(3)(k)]

13. Justify the time requested to complete the project and/or apply the water to full beneficial use. *(Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.)*

The project is taking longer to complete than the permit allowed due to the size of acreage and owners involved. Ownership of properties in the permit have changed hands. Increase in expenses and fluctuating costs of cranberries have made the project more difficult to complete. Cranberry prices have risen recently which will help move the project forward.

This permit is tied to permit S-53703 which has been extended to October 2024. Bogs are still being developed some of which are dependent on a reservoir constructed after the last completion date.

See also #16 below

[OAR 690-315--0020(3)(l)]

14a. Will a denial of the extension result in undue hardship? *(Describe the hardship and the effects.)* .) There are multiple family farms covered under this permit and all of them use it. The total investment to date is approximately $2,000,000. These families depend on the income from farming cranberries.

The use of water permit (S-53703) has been extended to 10/1/2024. Full use of water under the use permit is dependent on this extension application being approved.

14b. Are there any other reasonable alternatives that exist for meeting your water use needs? *(Explain in detail, consider other potential sources of water, and describe their feasibility)*) None There are no other potential sources of water which are feasible for the volume of water that is necessary

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[OAR 690-315-0020(3)(h)

15. Was the delay in the timely completion of this water development project and/or timely application of water to full beneficial use caused by any additional government requirements, other than the conditions contained within the permit, which significantly delayed the completion and perfection of this right? *(Explain in detail, including how much time did this delay the project; list dates.)*Yes. ODF&W has requested improvement to diversion on Bill Creek. We have entered into a cost share project to improve the diversion which will move it slightly. Project scheduled to be completed in 2022, however has yet to be completed. This has delayed completion of the COBU.

[OAR 690-315-0020(3)(h)

16. Describe any unforeseen events which contributed to the delay of completion of this project that you had no control over. *(Explain in detail what the unforeseen events were (i.e. health issues, natural disaster) and how much time was spent addressing the unforeseen events. Delays caused by business decisions are not considered unforeseen events)*

Original property owners under this permit, W. Scherer, F Richert and R. Haga have all passed away in the last few years. Ownership of Scherer property has changed hands several times since and has now been purchased by Bill Creek LLC. Bill Creek LLC has been working diligently to complete this permit as well as the use permit, S-53703.

[OAR 690-315-0020(3)(h)]

17. Describe an additional reasons why the construction was not completed, and/or water was not beneficially used within permit time limits. *(Provide supporting information for the reason(s) that best fits your circumstances.)*

Higher cost of expansion and development coupled with lower cranberry prices

[OAR 690-315-0020(3)(m)(n)]

18. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.

This is a very complex and expensive project planned to be developed over a longer period of time than allowed. There are multiple owners covered by this permit with varying timelines for completion. This permit is directly tied to the use permit S-53703 so it is difficult to separate some of the costs. The area was covered by brush when the permit application was submitted and as construction began it was necessary to alter some reservoir sizes and actual location as well as some of the bog locations.

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[OAR 690-315-0040(2)(f)]

19. Will the income or use of the water project provide a fair and reasonable return on your investment? *(Explain in detail)* Yes. Anytime a farmer invests time, income and energy into developing their land there is an expected return on that investment. Cranberry farming is and has been a way of life in this area and supports the families who run the farms.

[OAR 690-315-0040(4)(d)]

20. Describe in detail if there are other economic interest, beyond those of the permit holder, which are dependent upon the completion of this project. *(Who will be effected and how?)* The individual families that farm cranberries under this permit.
The farmers and families in this area support the surrounding communities. We have accounts with and spend money at the local businesses – fuel companies, equipment suppliers, fabricators, restaurants, etc. all have the potential for impact.

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Attach permit, and documentation to the application

Exhibit 3
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STATE OF OREGON

COUNTY OF COOS

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PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION
PO BOX 503
BANDON, OREGON 97411

(541)347-3062

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

APPLICATION FILE NUMBER: R-69708

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK

POINT OF DIVERSION LOCATION: NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH AND 2480 FEET EAST FROM W1/4 CORNER SECTION 3

STORAGE FACILITIES: 23 RESERVOIRS BEING WINDHURST: HAGA 1,2,3,4; BEE STING; SCHERER 1,2,3,4,5,6,7,8; MANICKE 1,2,3,4; RICHERT 1,2,3,4,& 5

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER PERMIT 53703 FOR CRANBERRY OPERATIONS.

VOLUME OF USE: 614 ACRE-FEET EACH YEAR, BEING 470 ACRE-FEET IN WINDHURST, 9.1 ACRE-FEET IN HAGA #1, 5.0 ACRE-FEET IN HAGA #2, 2.9 ACRE-FEET IN HAGA #3, 6.0 ACRE-FEET IN HAGA #4, 23.0 ACRE-FEET IN BEE STING, 1.4 ACRE-FEET IN SCHERER #1, 1.4 ACRE-FEET IN SCHERER #2, 5.6 ACRE-FEET IN SCHERER #3, 7.0 ACRE-FEET IN SCHERER #4, 1.5 ACRE-FEET IN SCHERER #5, 4.2 ACRE-FEET IN SCHERER #6, 7.7 ACRE-FEET IN SCHERER #7, 4.2 ACRE-FEET IN SCHERER #8, 9.1 ACRE-FEET IN MANICKE #1, 9.1 ACRE-FEET IN MANICKE #2, 9.1 ACRE-FEET IN MANICKE #3, 2.7 ACRE-FEET IN MANICKE #4, 5.6 ACRE-FEET IN RICHERT #1, 9.1 ACRE-FEET IN RICHERT #2, 9.1 ACRE-FEET IN RICHERT #3, 5.6 ACRE-FEET IN RICHERT #4, AND 5.6 ACRE-FEET IN RICHERT #5

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH MAY 31

DATE OF PRIORITY: SEPTEMBER 6, 1988, FOR 100 ACRE-FEET AND JUNE 1, 1994, FOR 514 ACRE-FEET

INSTANTANEOUS DIVERSION RATE: THE MAXIMUM DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED

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UNDER ANY PERMIT FOR APPLICATION S-69654, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW:

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the live flow diversion authorized under any permit for application S-69654, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application S-69654, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application S-69654, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for S-69654 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

The area submerged by the Windhurst Reservoir, when full, will be 23.0 acres and the maximum depth of water will be 24.0 feet. The maximum height of the dam shall not exceed 28.0 feet.

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The area submerged by the Haga Reservoir #1, when full, will be 2.6 acres and the maximum depth of water will be 9.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #2, when full, will be 0.8 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #3, when full, will be 0.5 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #4, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Bee Sting Reservoir, when full, will be 2.0 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Scherer Reservoir #1, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #2, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #3, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #4, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #5, when full, will be 0.5 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #6, when full, will be 0.7 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

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The area submerged by the Scherer Reservoir #7, when full, will be 1.0 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #8, when full, will be 0.5 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Manicke Reservoir #1, when full, will be 1.1 acres and the maximum depth of water will be 11.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #4, when full, will be 0.3 acre and the maximum depth of water will be 10.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Richert Reservoir #1, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #3, when full, will be 0.7 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #4, when full, will be 0.7 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #5, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

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THE AREAS TO BE SUBMERGED BY THE RESERVOIR ARE LOCATED AS FOLLOWS:

NE 1/4 NE 1/4	MANICKE #1
SECTION 32	
NW 1/4 NW 1/4	MANICKE #2
SW 1/4 NW 1/4	MANICKE #2,3
SE 1/4 NW 1/4	MANICKE #4
SECTION 33	
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.	
NW 1/4 SW 1/4	HAGA #1
SECTION 3	
SW 1/4 NW 1/4	SCHERER #5
NE 1/4 SW 1/4	BEE STING
NW 1/4 SW 1/4	SCHERER #7,8
SW 1/4 SW 1/4	HAGA #4
SE 1/4 SW 1/4	HAGA #2,3, BEE STING
NE 1/4 SE 1/4	WINDHURST, HAGA #4
NW 1/4 SE 1/4	WINDHURST
SECTION 4	
NE 1/4 NE 1/4	SCHERER #3
SW 1/4 NE 1/4	SCHERER #1
SE 1/4 NE 1/4	SCHERER #2,3,4
NE 1/4 SE 1/4	SCHERER #6
SECTION 5	
NE 1/4 NE 1/4	RICHERT #2
NW 1/4 NE 1/4	RICHERT #1,3
SW 1/4 NE 1/4	RICHERT #5,4
SECTION 9	
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.	

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Measurement, recording and reporting conditions:

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

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

Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

No fill shall be placed until preparation of the foundation has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

Any significant change in the approved design prior to or during construction shall be documented by the engineer of record in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

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

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

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The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

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.

STANDARD CONDITIONS

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2005.

Issued October 10, 2000

Dwight Stuck for
Paul R. Cleary, Director
Water Resources Department

Exhibit 4
1 of 5

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STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION
P.O. BOX 503 (541)347-3062
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: S-69654

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK, AND LEGALLY STORED WATER UNDER PERMIT R-12928

PURPOSE OR USE: CRANBERRY OPERATIONS ON 162.4 ACRES, AGRICULTURAL USE ON 27.7 ACRES, AND SUPPLEMENTAL CRANBERRY OPERATIONS ON 18.1 ACRES

MAXIMUM RATE/VOLUME ALLOWED: 614.0 ACRE-FEET OF STORED WATER; MAXIMUM INSTANTANEOUS DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED UNDER PERMIT R-12928, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW.

PERIOD OF USE: NOVEMBER 1 THROUGH MAY 31 FROM NATURAL FLOW AND YEAR ROUND FROM STORED WATER ONLY

DATE OF PRIORITY: JUNE 30, 1988

POINT OF DIVERSION LOCATION: BILL CREEK - NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH & 2480 FEET EAST FROM W1/4 CORNER, SECTION 3; STORED WATER FROM 23 RESERVOIRS DESCRIBED IN PERMIT R-12928.

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow

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measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing R-69708, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for R-69708, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for R-69708 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	*1CRANBERRY	*2AGRICULTURE	*3SUPPLEMENTAL CRANBERRY
NE 1/4 NE 1/4	5.9 ACRES		4.3 ACRES
NW 1/4 NE 1/4	5.0 ACRES		
SE 1/4 NE 1/4	4.3 ACRES		0.7 ACRE
		SECTION 32	
NW 1/4 NW 1/4	25.0 ACRES		
SW 1/4 NW 1/4	18.0 ACRES		
SE 1/4 NW 1/4	7.0 ACRES		
		SECTION 33	
		TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.	
NW 1/4 SW 1/4	7.0 ACRES		
		SECTION 3	
NW 1/4 SW 1/4	15.0 ACRES	6.0 ACRES	
SW 1/4 SW 1/4	1.2 ACRES		13.1 ACRES

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	*1CRANBERRY	*2AGRICULTURE	*3SUPPLEMENTAL CRANBERRY
SE 1/4 SW 1/4	15.2 ACRES		
NE 1/4 SE 1/4	12.0 ACRES		
		SECTION 4	
NE 1/4 NE 1/4	7.0 ACRES	0.4 ACRE	
NW 1/4 NE 1/4	1.2 ACRES	0.1 ACRE	
SW 1/4 NE 1/4		2.0 ACRES	
SE 1/4 NE 1/4	8.2 ACRES	3.9 ACRES	
NE 1/4 SE 1/4	6.0 ACRES	5.0 ACRES	
SE 1/4 SE 1/4	0.2 ACRE		
		SECTION 5	
NE 1/4 NE 1/4	4.7 ACRES	3.0 ACRES	
NW 1/4 NE 1/4	16.5 ACRES		
SW 1/4 NE 1/4	3.0 ACRES	7.3 ACRES	
		SECTION 9	

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

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*1 - Use of water is for primary irrigation and agriculture use for Cranberry Operations.

*2 - Use of water is for primary agriculture use and supplemental Irrigation use for Cranberry Operations.

*3 - Use of water is for supplemental agriculture use and irrigation use for Cranberry Operations.

Measurement, recording and reporting conditions:

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

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

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At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

STANDARD CONDITIONS

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

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2005. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued October 10, 2000

Dwight French for
Paul R. Cleary, Director
Water Resources Department

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Application for Extension of Time for a Water Right Permit (NON-Municipal/NON Quasi-Municipal water Use)

OREGON WATER RESOURCES DEPARTMENT

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

Criteria for a Permit Extension of Time

The Department can accept requests for an extension of time on permits to (1) complete construction, and/or to (2) apply water to beneficial use.

In order to approve a permit extension request the Department must be able to find:

1) **Construction has begun:**

   A. **For Groundwater Permits**
   Construction of the well(s), *authorized by the permit*, began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

   B. **For Surface Water or Reservoir Permits**
   Construction of the water system began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

The Department will also confirm that:

2) If required, a fish screen, fish passage or fish by-pass device was installed before or prior to diversion of any water. An exception to the need to confirm installation prior to diversion of any water would be a waiver submitted to the Department from ODFW stating that a fish screen, fish passage or fish by-pass device was not required, provided your permit allows for a waiver.

If you have questions, please call the Department at (503)-986-0900 and ask to speak with a permit extension specialist.

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OREGON WATER RESOURCES DEPARTMENT

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

A separate extension application must be submitted for <u>each</u> permit as per OAR 690-315-0020(2).

I, Windhurst road watering corp.
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

Po box 1832 | Bandon | OR | 97411
ADDRESS | CITY | STATE | ZIP

541-297-6292 | jkcranberries@yahoo.com
PHONE | E-MAIL ADDRESS

the permit holder of: Application Number R- 69708

Permit Number R-12928
[OAR 690-315-0020(3)(b)]

do hereby request that the date by which the water development will be completed and water put to full beneficial use, which time now expires on Month: October Day: 01 Year: 2019, be extended to October 1, 2024, *[OAR 690-315-0020(3)(i)]*

I am the permit holder, and may apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

Scott Vierck | 6/9/2021
Signature | **Date**

Scott R. Vierck | chairman
Printed Name | **Title**

The agent below is authorized to represent the applicant in all matters relating to THIS application. SRV
Permit Holder Initials

Authorized Agent (Print Agent Name) | **Agent contact**

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Before submitting your Application for Extension of Time, make sure the following items are included:

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- This completed Application for Extension of Time.
- Statutory fee of $670
- Signature page (Second page of this Application for Extension of Time).
- Letter granting an agent authority to act on behalf of the permit holder (*if applicable*)
- All supporting documentation and/or evidence referenced in the Application for Extension of Time. (ODFW Fish screen approval or waiver, contract for stored water, etc)

MAIL COMPLETED APPLICATION
along with the Supporting documents and/ or evidence and correct fee to:

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Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

GENERAL TIPS:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form.** The correct form is APPLICATION FOR EXTENSION OF TIME FOR MUNICIPAL AND QUASI-MUNICIPAL WATER USE PERMITS.
- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.
- A separate APPLICATION FOR EXTENSION OF TIME must be submitted for each permit. OAR 690-315-0020(2).
- Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at the State of Oregon, Secretary of State Website. To be granted an extension of time, the Department must make four specific findings; 1) the application is complete, 2) construction of the water system began, 3) there is good cause, and 4) the project can be completed within the time being requested. If the Department cannot make all four findings, the extension of time cannot be approved.
- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 690-315-0020(3)(n).
- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights Services Division.

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- An Application for an Extension of Time will be reviewed for completeness. A response is required for each item contained in the application. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- **The water right permit.** If needed, a copy of the water right permit can be downloaded from the Department's Website, or, a copy of the permit may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).

- **Previous Applications and Orders.** Copies of previous applications and orders that may inform the completion of the Application for Extension of Time, if available, may be downloaded from the Department's Website. **NOTE: If the document requested is not available on the Department's website, you may be required to submit a Public Record Request.**

- **Documentation which demonstrates compliance with permit conditions** (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Questions to complete this application for an Extension of Time
Please see the instruction sheet to help you answer these items.

1. **Beginning Construction within required deadlines.** OAR 690-315-0020(3)(d)

For Groundwater Permits

Has construction of the point of appropriation (well) authorized under this permit begun?
☐ Yes ☐ No

Date construction began Month: Day: Year:

Details of construction and attach documentation:

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For Surface/Reservoir Permit

Has construction of the water system begun? ☒ Yes ☐ No

Date construction began Month: Day: Year: 1998

Details of construction and attach documentation: begin construction of Windhurst Reservoir

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OAR 690-315-0020(3)(A)(e)(A)

2a. Permits typically contain standard or special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column are contained within it. Using the extra row labeled "other" to specify any other additional conditions included in the permit, or specified in a final order approving a permit amendment or prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check "Yes" if you have completed or met the permit condition. Check "No" if the condition is not yet satisfied. In the 4th column, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation. Note: a pump test condition does not need to be addressed here however; you must submit the results of the test to the Department for approval prior to certification.

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CHART-A

Permit Conditions in this Permit		Have Completed or Met?	Date satisfied/ or will be satisfied
Checkbox	Ground water Check those included on this permit		
☐	Installation of a meter/totalizing flow meter	☐ Yes ☐ No	
☐	Submittal of annual water usage report	☐ Yes ☐ No	
☐	Submittal of initial static water level measurement	☐ Yes ☐ No	
☐	Submittal of annual static water level measurements in the month required	☐ Yes ☐ No	
☐	Submittal of Seven consecutive static water level measurements in the month required	☐ Yes ☐ No	
☐	Special well construction standards	☐ Yes ☐ No	
☐	Submittal of a monitoring plan	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
	Surface Water or Reservoir		
☒	Installation of a meter/ totalizing flow meter	☒ Yes ☐ No	2001
☒	Submittal of annual water use report	☒ Yes ☐ No	2001
☒	Installation of a fish screen	☒ Yes ☐ No	2002
☐	Installation of a fish by-pass device	☐ Yes ☒ No	NA
☐	Installation of a fish passage	☐ Yes ☒ No	NA
☒	Installation of an outlet gate/pipe/ conduit	☒ Yes ☐ No	1999
☒	Submittal of a letter from ODFW that fish screen, fish by-pass device, and or fish passage is not required	☒ Yes ☐ No	2002
☒	Submit as-built plans and specification	☒ Yes ☐ No	
☒	Submittal of a letter from an engineer prior to storage	☒ Yes ☐ No	2002
☒	Other (Specify): outlet cycled each year	☒ Yes ☐ No	2002
☒	Other (Specify): staff gages installed in all constructed reservoirs	☒ Yes ☐ No	2015
☒	Other (Specify): weir and staff gage installed on Bill Cr.	☒ Yes ☐ No	1998
☒	Other (Specify): staff gage installed on Bear Cr.	☒ Yes ☐ No	2000

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2b. If you have identified that you have NOT complied with Permit conditions, explain the reasons why and indicate a date certain, when you will be in compliance.

[OAR 690-315-0020(3)(e)]

3. Provide evidence of physical work made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B); and if applicable, within the time period of the most recent extension granted (CHART-C). CHART-B (below) must be completed for all Application for Extension of Time requests. *Use chronological order.* Itemize each work item, and do not combine multiple work actions in one area. (Planning, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land, or planting crops ***is not*** *considered work in the development of the water system.* ***Work accomplished under other water rights may not be considered work under this permit.***)

CHART-B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED *List any work done before the permit was issued – eg. well drilled.*	COST*
	See attachment B	1,600,000
DATE	**WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER** *List work/actions done during the permitted time period.*	**COST***
10/10/2000	**Date the permit was signed** - find date above signature on last page of permit.	
10/10/2001	Date by which actual construction work shall begin	
2001	Install pump, electrical & valves for Windhurst Reservoir	12,050
2001	Partial excavation of Haga Res. #1	4,000
2002	On site geologist during filling of Windhurst Reservoir	7,900
2002	Fish screen installed on Bill Creek	2,617
2004	Partial excavation of Scherer Res. #2	4,000
10/1/2005	**Date the permit specified complete application of water to the use shall be made**- all permits contain this date.	
DATE	**WORK ACCOMPLISHED AFTER the date the permit specified complete application of water and prior to any previous extension order** *COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR AN EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.*	**COST***
	Total Cost for Chart-B	1,630,567

*** If exact cost is not known, you must provide your best estimate.**

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4. If this is not your 1st Application for Extension of Time request, fill out CHART-C below in addition to CHART-B above. ***Use chronological order.***

CHART-C

DATE	WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD *List all work done during the last authorized extension period.*	COST*
10/1/2014	**"Extended From" date for complete application of water used in the most recent Final Order on Extension of Time.**	
2014-2019	Manicke – Extension to 50% of ponds to finish	10,000
2014-2019	Scherer – install staff gages after 2014 harvest, Enlarge Res. #1 & #2	10,000
2014-2019	Haga – Install staff gages after 2014 harvest, Complete Bee Sting Res.	10,000
2015	Install new water meters	3,600
2015	Install staff gages for Haga and Scherer	2000
2015	Finish Bee Sting Reservoir	10,000
2017	Run water line to Bee Sting Res.	6,500
2018	Dig Manicke Reservoir	7,800
10/30/2019	**"Extended To" date for complete application of water resulting from the most recent Final Order on Extension of Time.**	
DATE	**WORK ACCOMPLISHED AFTER THE LAST EXTENSION PERIOD EXPIRED** *List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.*	**COST***
1/20/2020	Replace Bill Creek pump	5000
2/5/2020	Install pump protection	3,900
	Total Cost of Chart-C	**68,800**

*** If exact cost is not known, you must provide your best estimate. [OAR 690-315-0020(3)(f)]**

5. Cost of project to date: 1,699,367+

(The total combined cost from CHART-B and CHART-C) **[OAR 690-315-0020(f)]**

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[OAR 690-315-0020(3)(e)(B)]

Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit made to date.

TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

6. For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

TIP: Report the rate in the same units of measurement as specified in the permit.

Maximum rate used to date = _____ cfs (cubic feet per second) *or,*

Maximum rate used to date = _____ gpm (gallons per minute) *or,*

Maximum volume of stored water used to date = or,

Maximum volume stored annually to date = approximately 614 AF

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7. For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment?	Maximum instantaneous rate used to date from this well - - under this permit only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total instantaneous rate from all wells utilized under this permit								

8. Has a Permit Amendment Application been filed? Yes ☐ No ☒

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If yes, identify Transfer No. T-_____

[OAR 690-315-0020(3)(e)(C)]

9. For Irrigation and Nursery Use Permits Extensions

Provide the total number of acres irrigated to date under this permit.

a) Total acres irrigated to date: _____

b) List by year, the number of acres irrigated each year since permit issuance.

Year	Acres	Year	Acres	Year	Acres

c) Provide a copy of the application map identifying the acres irrigated.

d) Please specify the number of acres irrigated by each Point of Diversion/Point of Appropriation (POD/POA).

(POD/POA)#_____ Acres_____ (POD/POA) #_____ Acres_____

(POD/POA) #_____ Acres_____ (POD/POA) #_____ Acres_____

[OAR 690-315-0020(3)(i)(j)]

10. In the chart below provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2021-2026	Bills Creek LLC to construct and consolidate reservoirs, construct new bogs	275,000
2021--2022	Complete New diversion from Bill Creek in Cooperation with ODF&W	70,000
Year:	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
	Total Cost	345,000

[OAR 690-315-0020(3)(g)]

11. Estimated remaining cost to complete the project: 345,000

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(The total cost from CHART-E)

[OAR 690-315-0020(3)(j)]

12. Provide a summary of your plan to complete construction, meeting all permit conditions and apply the water to beneficial use: *(List all tasks or steps needed to complete the project, the date when each task will be completed, and the cost associated with each task; attach additional pages if necessary.)* All conditions of permit are currently met. Reservoirs to be constructed or enlarged by 2028

[OAR 690-315-0020(3)(k)]

13. Justify the time requested to complete the project and/or apply the water to full beneficial use. *(Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.)*

The project is designed to take longer to complete than the permit allowed due to the size of acreage and owners involved. Ownership of properties in the permit have changed hands. Increase in expenses and fluctuating costs of cranberries have made the project more difficult to complete. Cranberry prices have risen recently which will help move the project forward. See also #16 below

[OAR 690-315--0020(3)(l)

14a. Will a denial of the extension result in undue hardship? *(Describe the hardship and the effects.)* There are multiple family farms covered under this permit and all of them use it. The total investment to date is approximately $2,000,000. These families depend on the income from farming cranberries.

14b. Are there any other reasonable alternatives that exist for meeting your water use needs? *(Explain in detail, consider other potential sources of water, and describe their feasibility)* None There are no other potential sources of water which are feasible for the volume of water that is necessary

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[OAR 690-315-0020(3)(h)

15. Was the delay in the timely completion of this water development project and/or timely application of water to full beneficial use caused by any additional government requirements, other than the conditions contained within the permit, which significantly delayed the completion and perfection of this right? *(Explain in detail, including how much time did this delay the project; list dates.)* Yes. ODF&W has requested improvement to diversion on Bill Creek. We have entered into a cost share project improve the diversion which will move it slightly. Project scheduled to be completed in 2022. This has delayed the possibility doing the COBU.

[OAR 690-315-0020(3)(h)

16. Describe any unforeseen events which contributed to the delay of completion of this project that you had no control over. *(Explain in detail what the unforeseen events were (i.e. health issues, natural disaster) and how much time was spent addressing the unforeseen events.)* Original property owners under this permit, W. Scherer, F Richert and R. Haga have all passed away in the last few years. Ownership of Scherer property has been purchased by Bill Creek LLC.

[OAR 690-315-0020(3)(h)]

17. Describe an additional reasons why the construction was not completed, and/or water was not beneficially used within permit time limits. *(Provide supporting information for the reason(s) that best fits your circumstances.)*
Higher cost of expansion and development coupled with lower cranberry prices

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[OAR 690-315-0020(3)(m)(n)]

18. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.
This is a very complex and expensive project planned to be developed over a longer period of time than allowed. There are multiple owners covered by this permit with varying timelines for completion. This permit is directly tied to the use permit S-53703 so it is difficult to separate the costs.

[OAR 690-315-0040(2)(f)]

19. Will the income or use of the water project provide a fair and reasonable return on your investment? *(Explain in detail)* Yes. Anytime a farmer invests time, income and energy into developing their land there is an expected return on that investment. Cranberry farming is and has been a way of life in this area.

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[OAR 690-315-0040(4)(d)]

20. Describe in detail if there are other economic interest, beyond those of the permit holder, which are dependent upon the completion of this project. *(Who will be effected and how?)* The individual families that farm cranberries under this permit.
The farmers and families in this area support the surrounding communities. We have accounts with and spend money at the local business – fuel companies, equipment suppliers, fabricators, restaurants, etc. all have the potential for impact.

Attach permit, and documentation to the application

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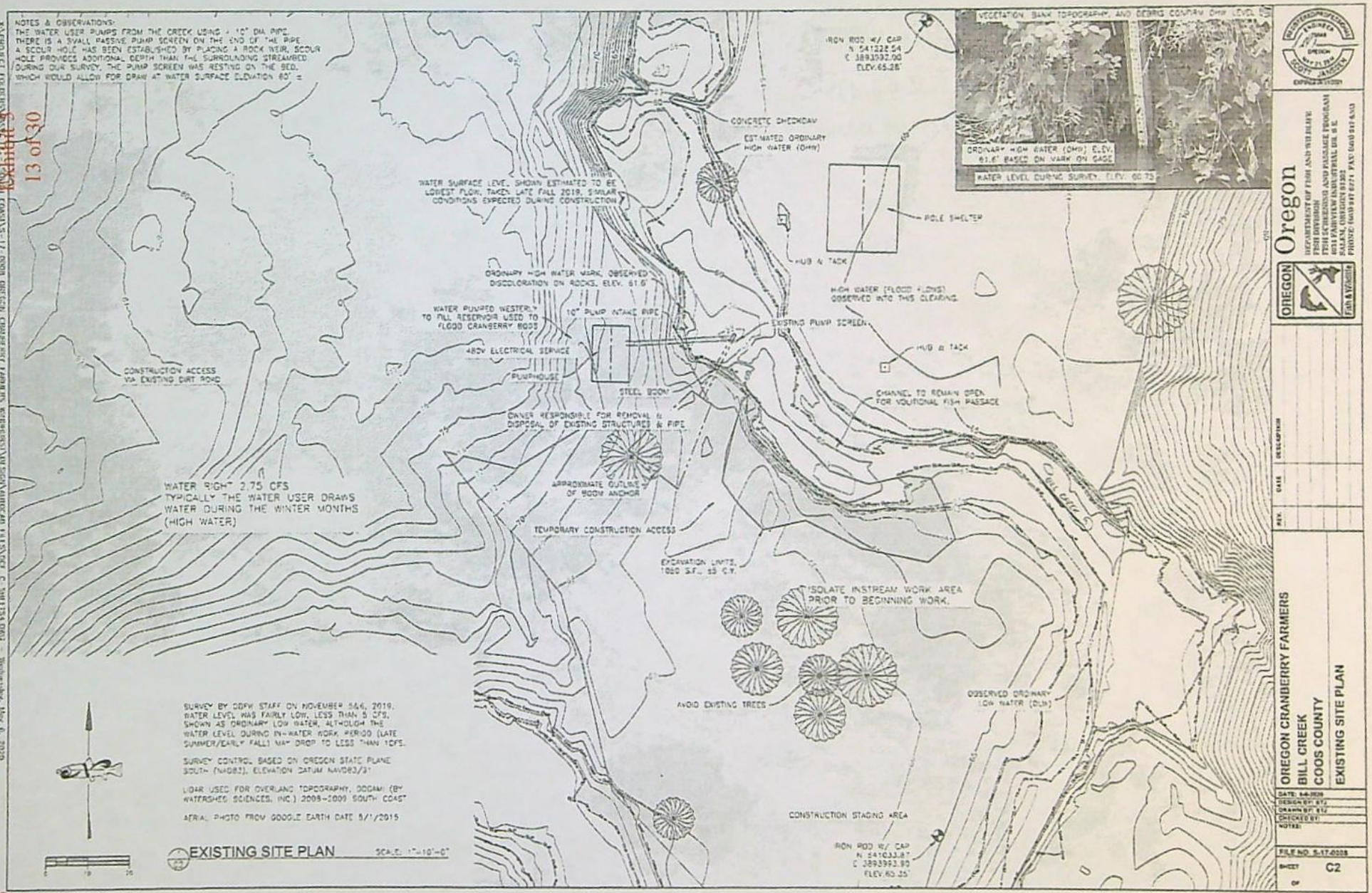

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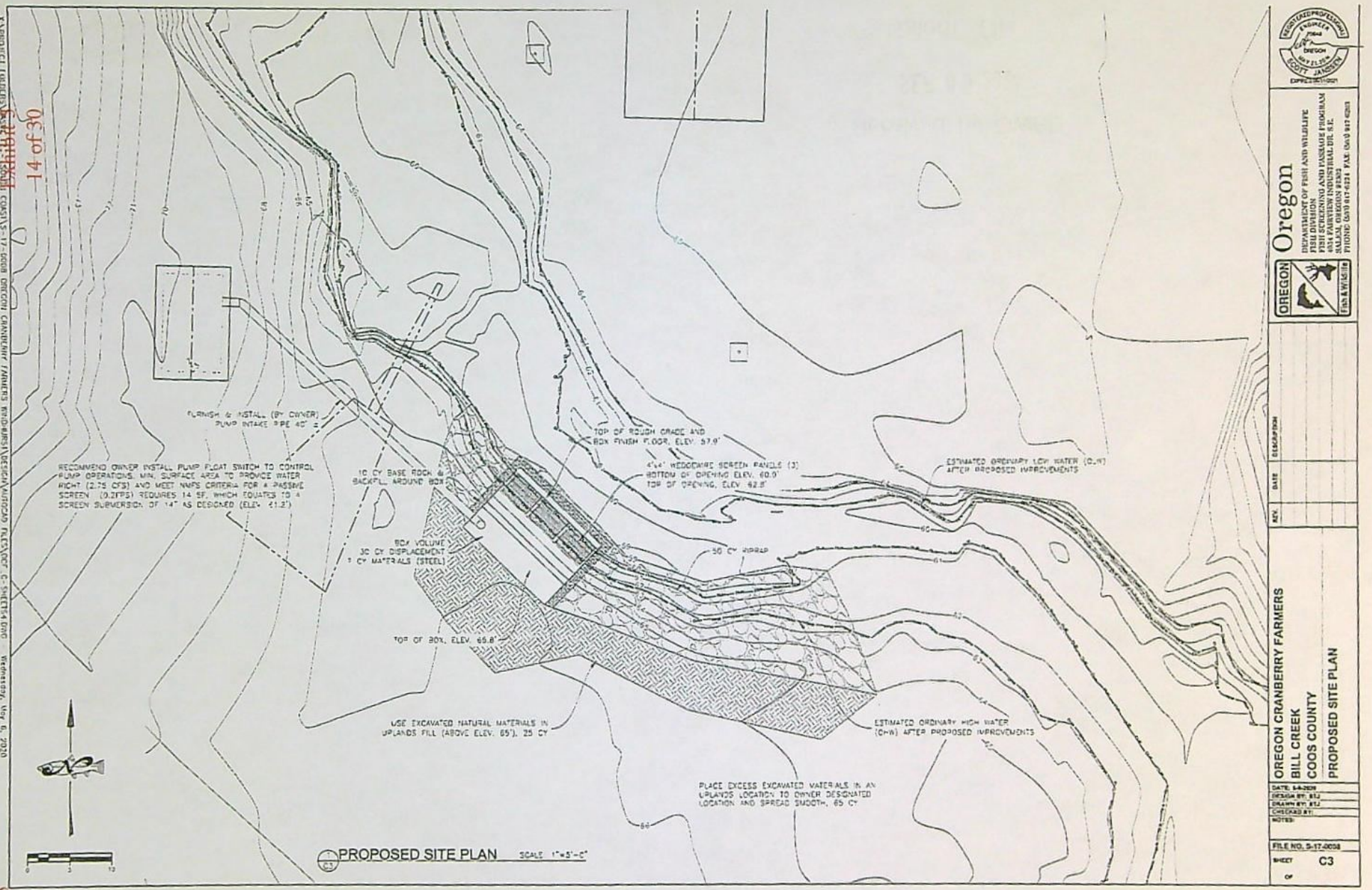

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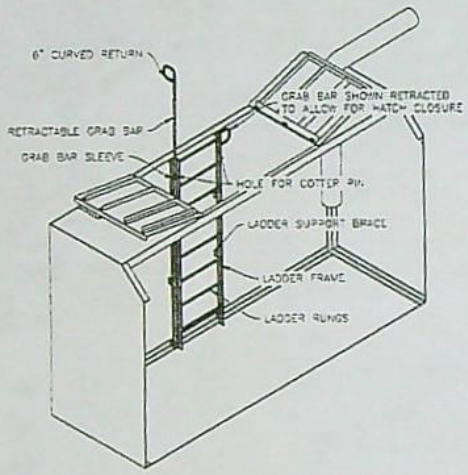
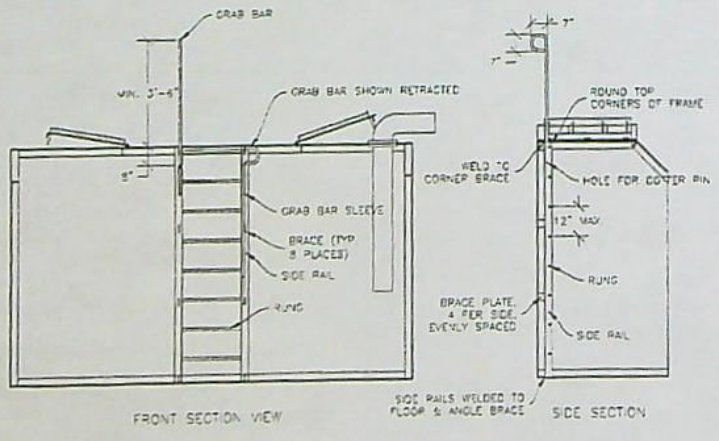
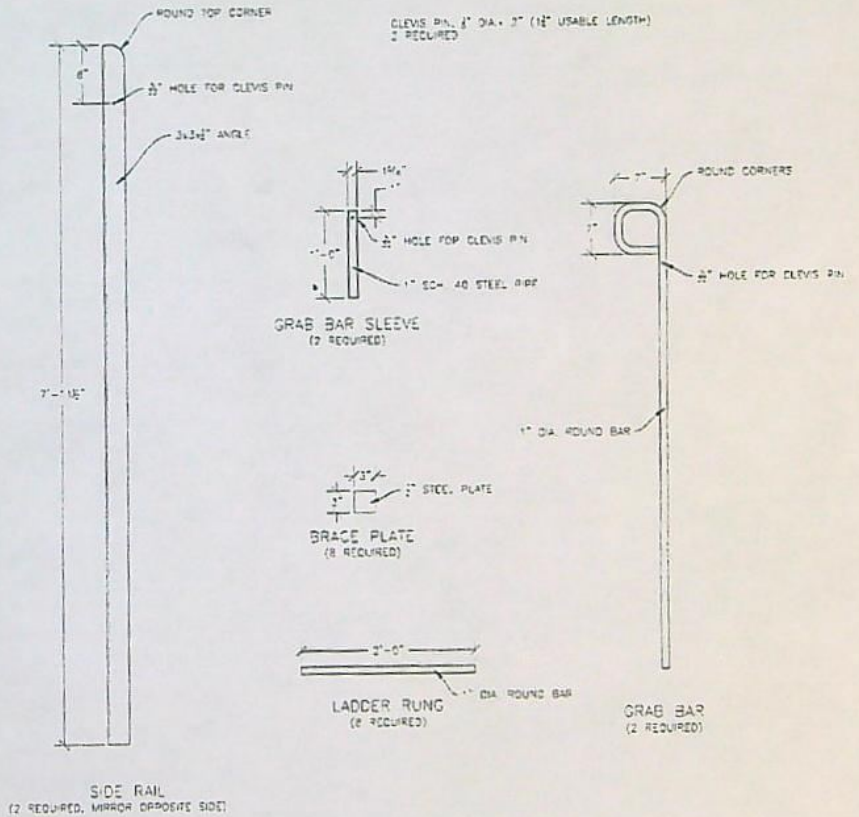


1/S9 LADDER ISOMETRIC VIEW SCALE: N.T.S.



2/S9 LADDER ASSEMBLY SCALE: 3/4"=1'



3/S9 LADDER COMPONENTS SCALE: 1 1/2"=1'-0"

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN
EXPIRES: 06/30/2021

Oregon
OREGON Fish & Wildlife
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: 503 947 6221 FAX: (503) 947 6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
LADDER

DATE: 6-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S9
OF

PROJECT FOLDER: S:\17-0008 OREGON CRANBERRY FARMERS\DRAWINGS\DWG\S-17-0008 XREF.dwg PLOTTED AT 5:27:15 PM ON May 6, 2020

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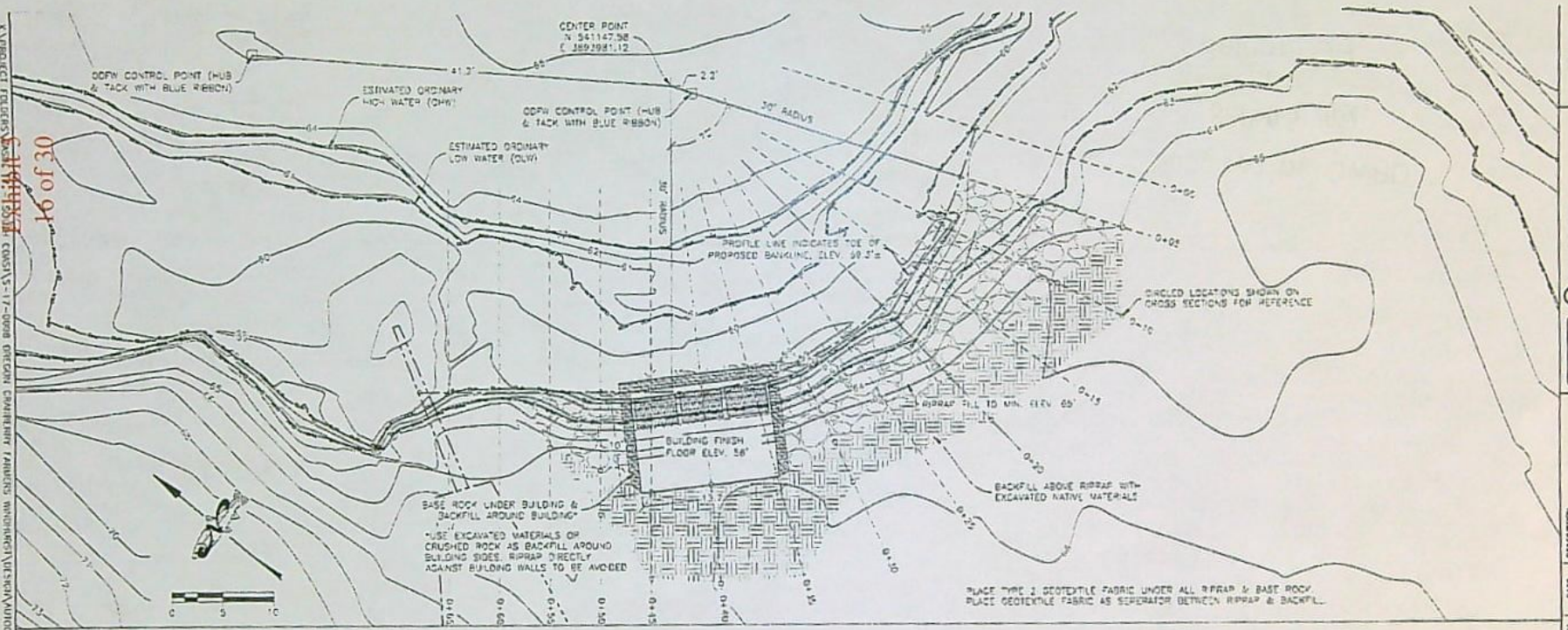
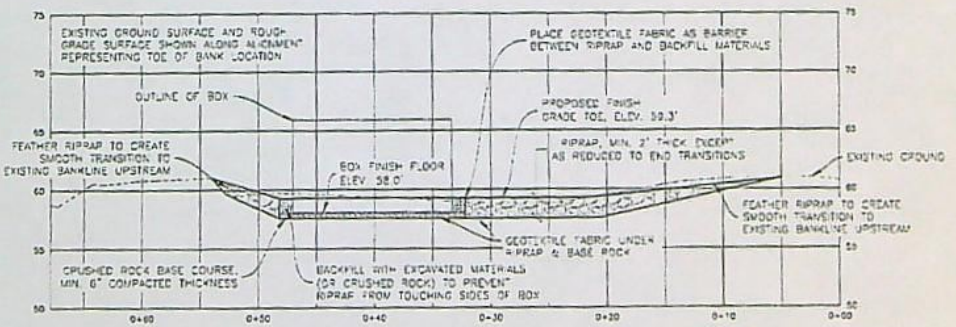


1/C4 LAYOUT PLAN SCALE: 1"=5'-0"



2/C4 PROFILE ALONG LEFT BANK TOE SCALE: 1"=5'-0"

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6221 FAX: (503) 947-6203

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN
EXPIRES: 6/30/2021

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
LAYOUT PLAN & PROFILE

DATE: 8-4-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET C4
OF

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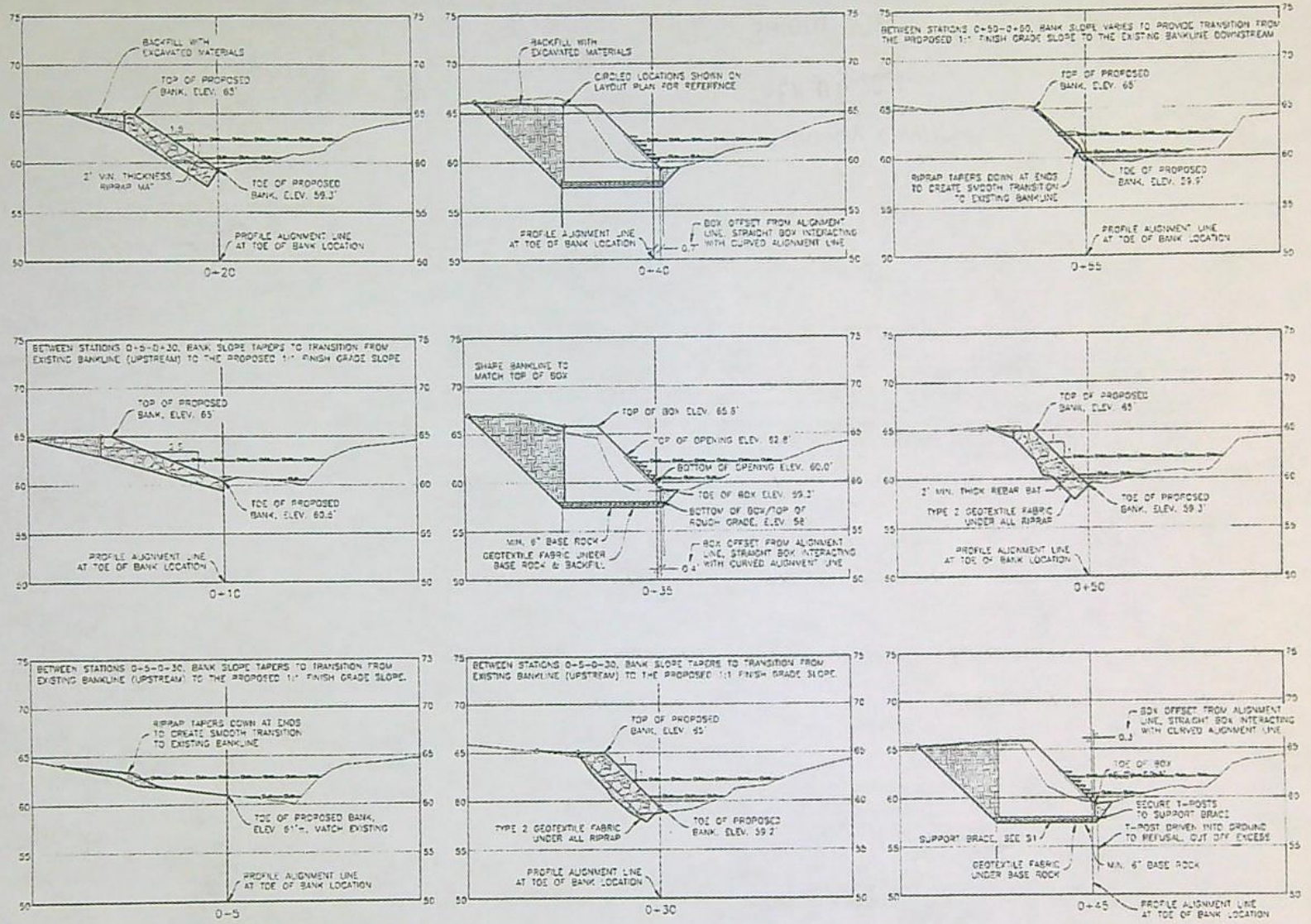

1 CROSS SECTIONS SCALE: 1"=5'-0"

OREGON Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
3406 CHERRY AVE NE
SALEM, OREGON 97303
PHONE: (503) 947-6221 FAX: (503) 947-6202

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
CROSS SECTIONS

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET C5
OF

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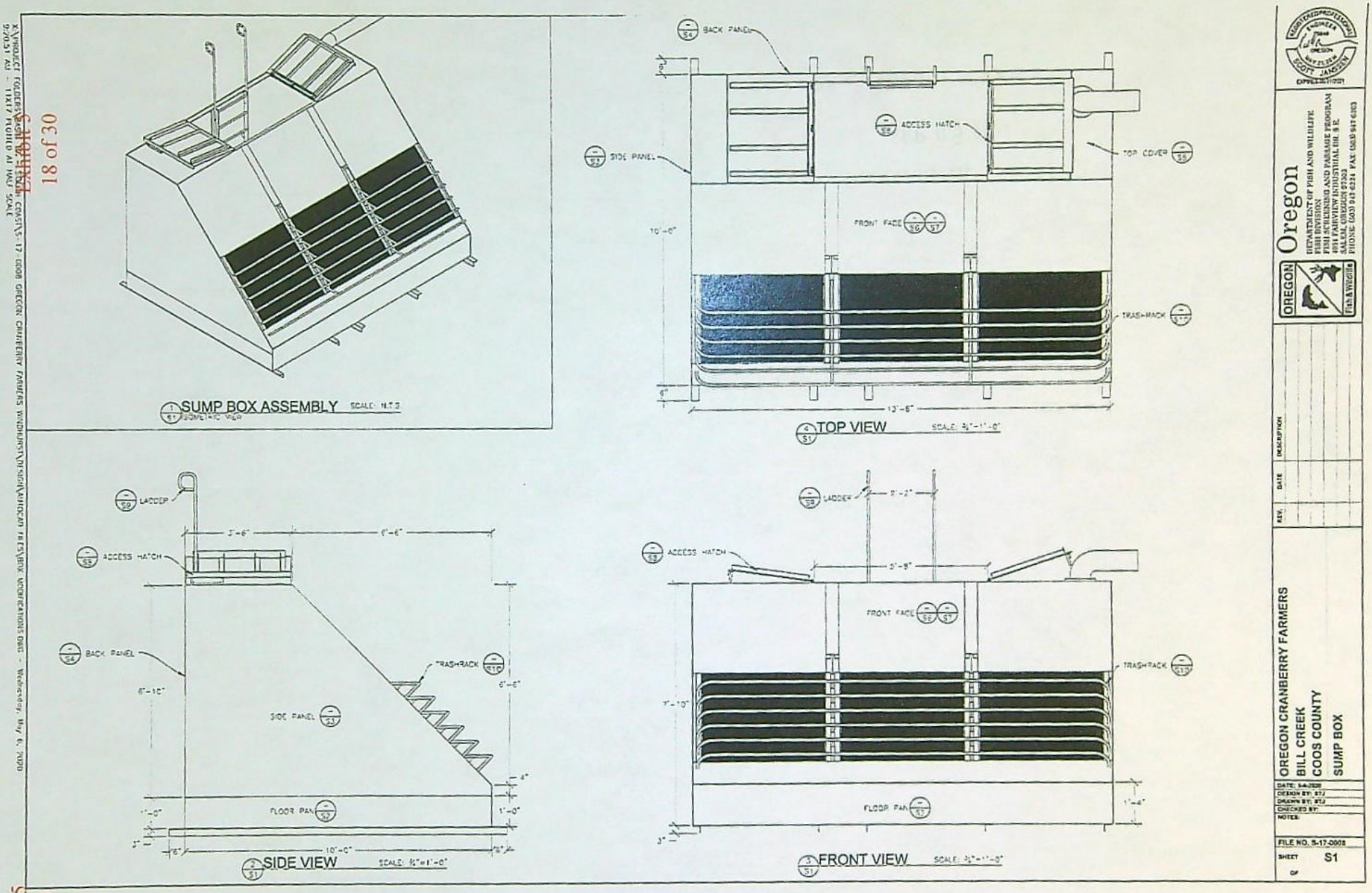
K:\PROJECT FOLDERS\BILL CREEK\COOS\S-17-0008 OREGON CRANBERRY FARMERS\RIGHTNTRS\SHAVUTOAD FILES\DCP C-SHEETS.DWG - Wednesday, May 6, 2020 - 10:31 AM - TEXT PLOTTED BY PAUL SAM



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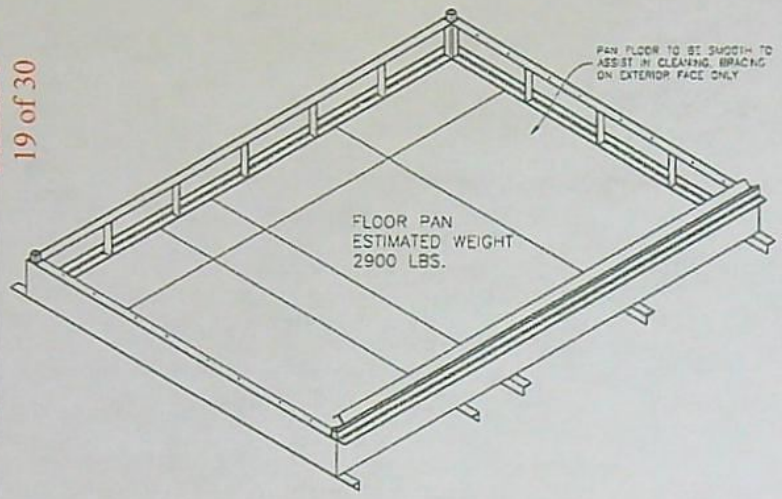
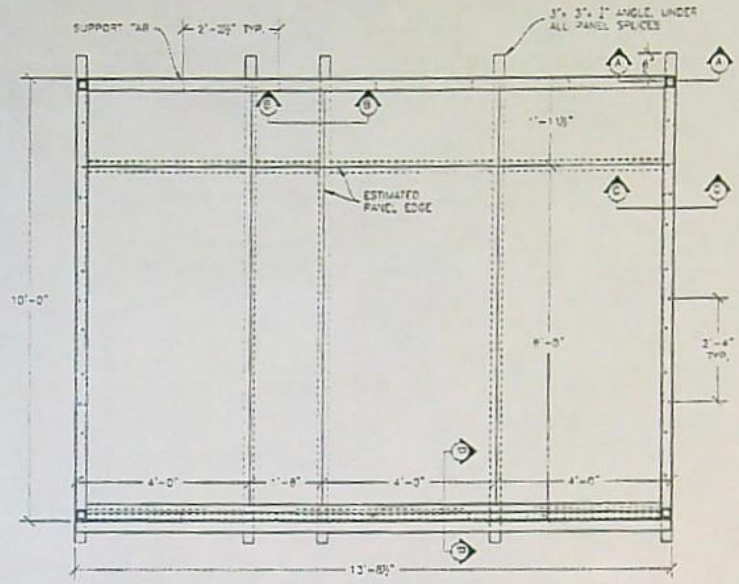
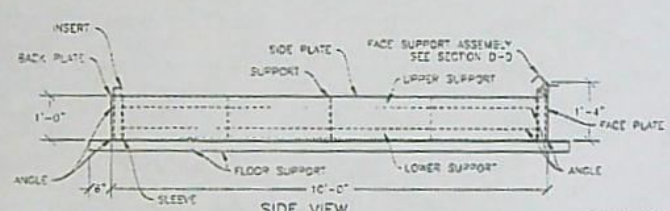


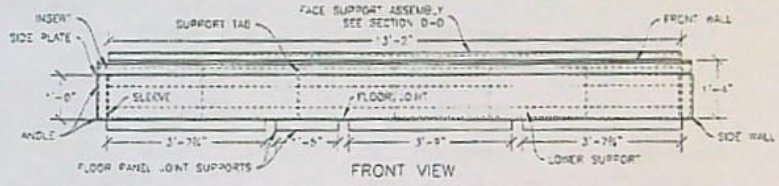
ISOMETRIC VIEW



TOP VIEW

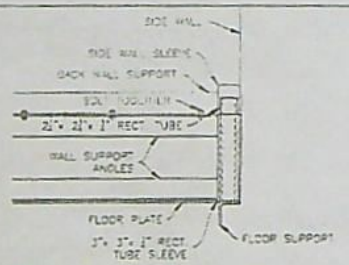


SIDE VIEW

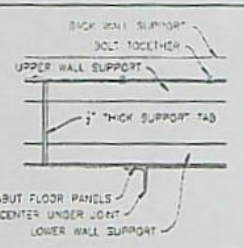


FRONT VIEW

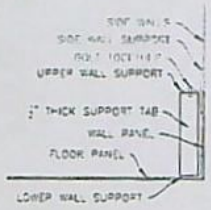
FLOOR PAN SCALE: ¾"=1'-0"



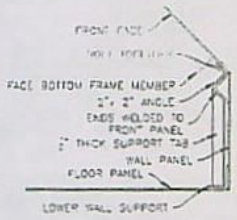
SECTION A–A
CORNER SLEEVE DETAIL



SECTION B–B
FLOOR PANEL SPLICE & WALL SUPPORTS TYP. OF SIDE WALLS & BACK WALL



SECTION C–C
WALL SUPPORTS

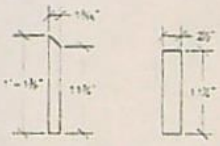


SECTION D–D
FRONT FACE SUPPORT

SECTIONS VIEWS SCALE: 1½"=1'-0"

MATERIALS

3" x 3" x ¼" ANGLE
SIDES – 4 @ 9'-6"
BACK – 2 @ 13'-2"
FRONT – 2 @ 13'-2"
FLOOR – 5 @ 11'-0"
FLOOR – 2 @ 3'-7½"
FLOOR – 1 @ 3'-9"
FLOOR – 1 @ 1'-5"
2" x 2" x ¼" ANGLE
FRONT – 1 @ 13'-2"
¼" STEEL PLATE (AS SHOWN)
FLOOR – 3 @ 4'x 8"
FLOOR – 1 @ 1'-8½" x 8"
FLOOR – 3 @ 4'x 1'-11½"
FLOOR – 1 @ 1'-8½" x 1'-11½"
SIDES – 2 @ 1'-0" x 10'-0"
FRONT – 1 @ 1'-4" x 13'-8"
BACK – 1 @ 1'-0" x 13'-8"
3" x 3" x ¼" RECT. TUBE
SLEEVE – 4 @ 12"
2½" x 2½" x ¼" RECT. TUBE
INSERT – 4 @ 1'-2"



SUPPORT TAB 5 REQ'D
SUPPORT TAB 1 REQ'D
SUPPORT TABS ¼" STEEL PLATE

REGISTERED PROFESSIONAL ENGINEER OREGON MAY 21, 1976 SCOTT JANSSEN EXPIRES: 12/31/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6221 FAX: (503) 947-6203

OREGON Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FLOOR PAN

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S2

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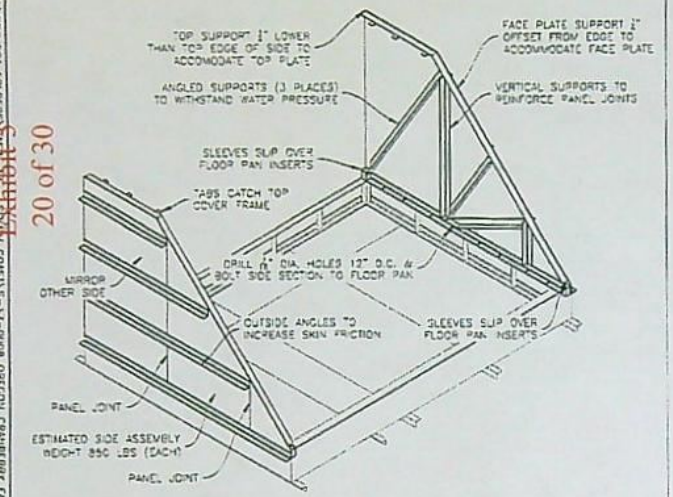
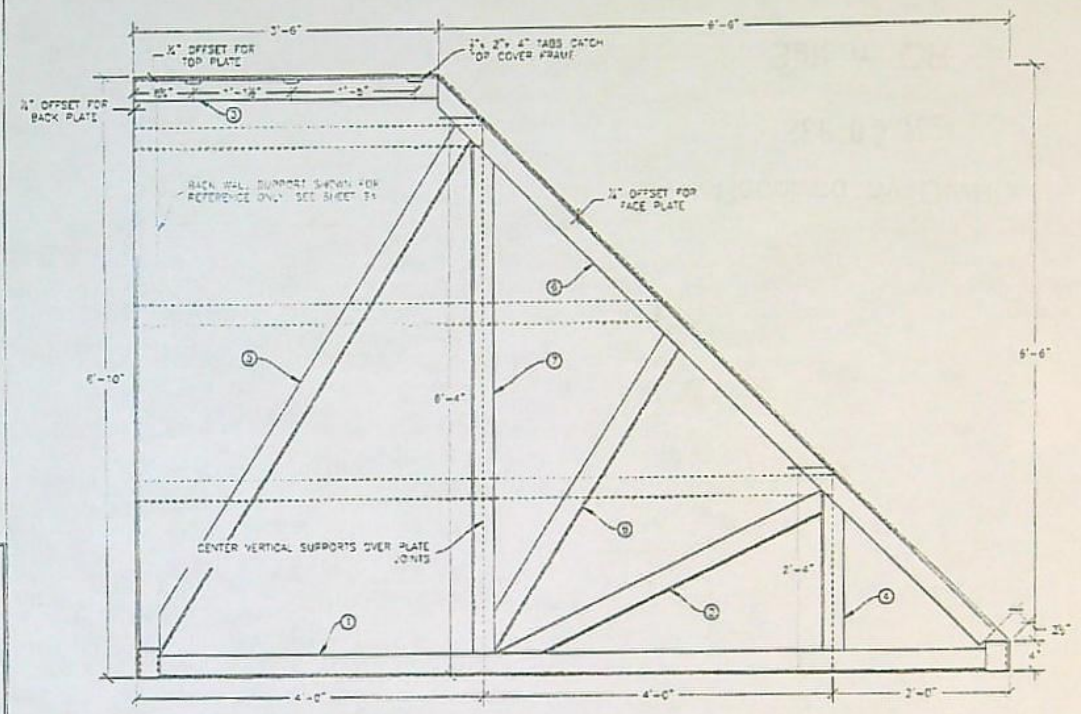
EXHIBIT 5
19 of 30

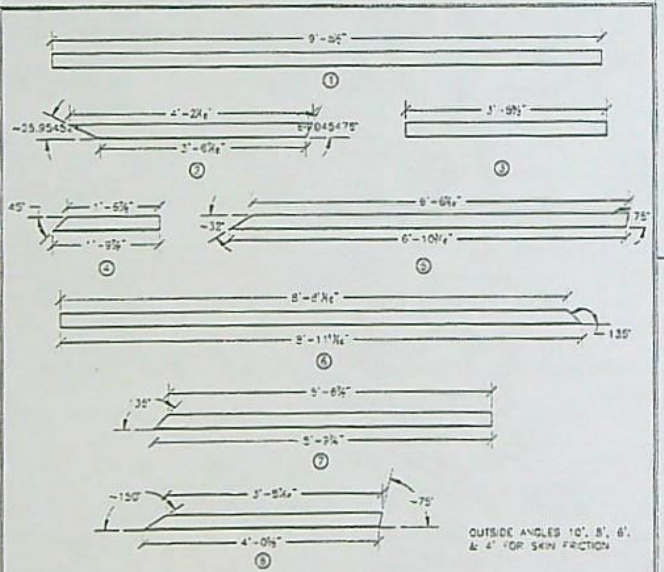
6/20/09 AM - 11X17 PLOTTED AT FULL SCALE
J:\PROJECTS\2009\S-17-0008 OREGON CRANBERRY FARMERS RIVER\DESIGN\ARCAD FILES\NON MODIFICATIONS\S2 - Wednesday, May 6, 2020



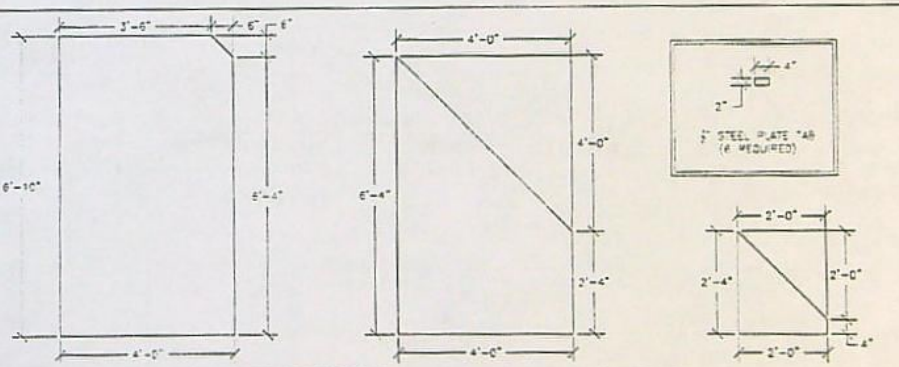
1 / S3 SIDE ASSEMBLY SCALE: N.T.S.
ISOMETRIC VIEW



2 / S3 SIDE PANEL LAYOUT SCALE: 1½"=1'-0"
MIRROR OPPOSITE SIDE



3 / S3 SUPPORT MEMBERS SCALE: 1"=1'-0" * EACH, 3"x 3"x ¼" ANGLE MIRROR FOR OPPOSITE SIDE



4 / S3 PANEL MEMBERS SCALE: ¾"=1'-0" CUT FROM 1" STEEL PLATE MIRROR FOR OPPOSITE SIDE

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FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
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PHONE: (503) 947-6201 FAX: (503) 947-6201

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN
EXPIRES: 6/30/2021

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
SIDE WALLS

DATE: 5-17-2008
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. 5-17-2008
SHEET S3
OF

EXHIBIT 5
20 of 30
Exhibit 5
20 of 30
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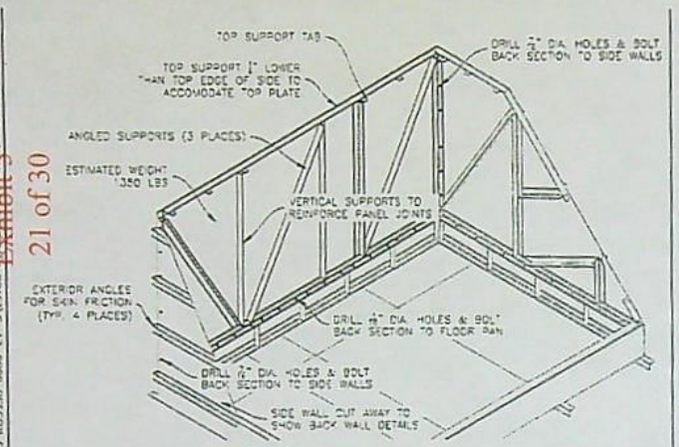
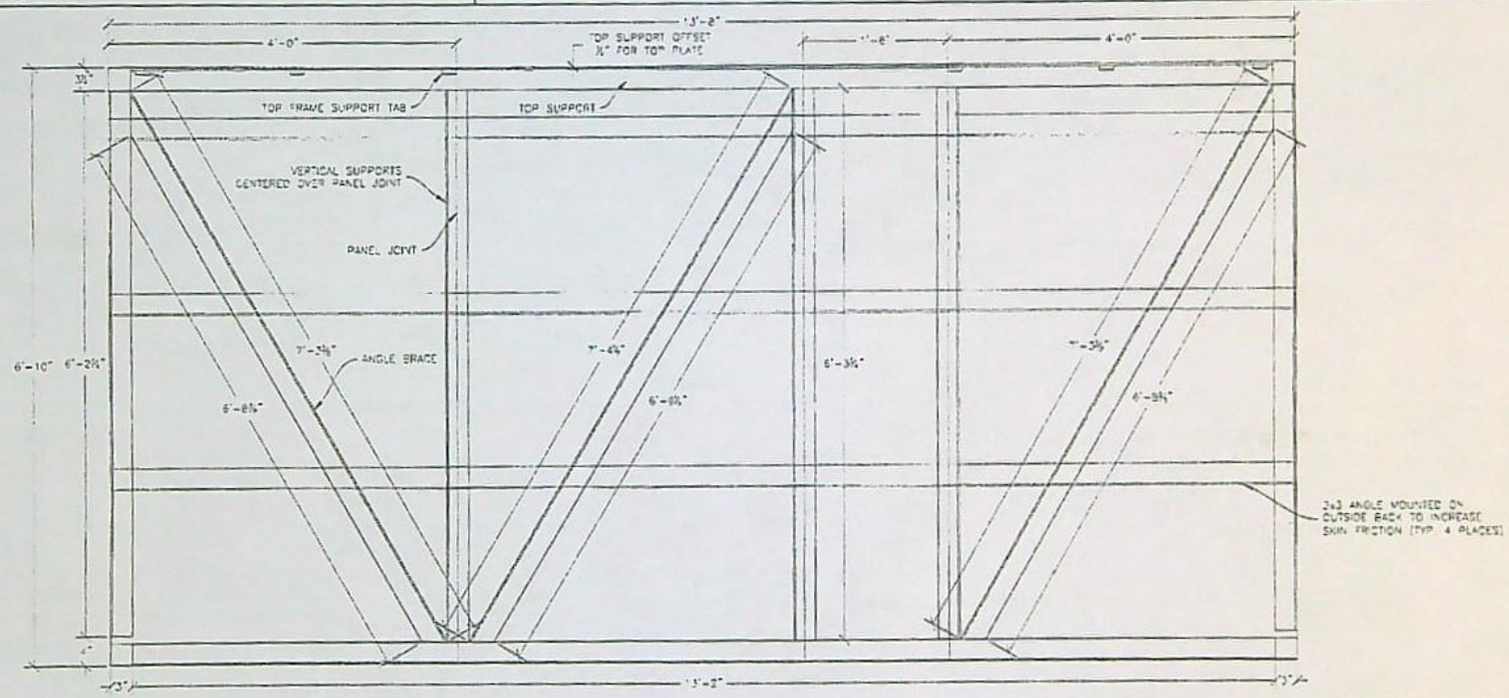
X:\PROJECT FOLDERS\WATER CROSSINGS\5-17-08 OREGON CRANBERRY FARMERS WINDHORST\DESIGN\AUTOCAD FILES\BOX MODIFICATIONS.DWG - Wednesday, May 6, 2020 9:21:56 AM - 11X17 PLOTTED AT 100% SCALE



1 S4 BACK ASSEMBLY SCALE: N.T.S.
SOMETHIC VIEW

MATERIALS:
3 @ 6'-10"x 4'-0" PANELS
1 @ 6'-10"x 1'-8" PANEL
1 @ 13'-2" 3x3x¼" TOP SUPPORT
1 @ 13'-2" 3x3x¼" BOTTOM SUPPORT
2 @ 6'-3¾" 3x3x¼" SIDE SUPPORTS
3 @ 6'-3¾" 3x3x¼" VERTICAL SUPPORTS
2 @ 7'-3¾" 3x3x¼" ANGLE BRACES
1 @ 7'-4¾" 3x3x¼" ANGLE BRACE
4 @ 13'-8" 3x3x¼" EXTERIOR ANGLES
6 @ 2"x 4"x ¼" TOP SUPPORT TABS

NOTE: LADDER CONNECTS TO BACK WALL. SEE SHEET S10 FOR DETAILS



OREGON
Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE (503) 947-6214 FAX (503) 947-6203
Fish & Wildlife

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN
EXPIRES 06/31/2021

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
BACK WALL

DATE: 5-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S4
OF

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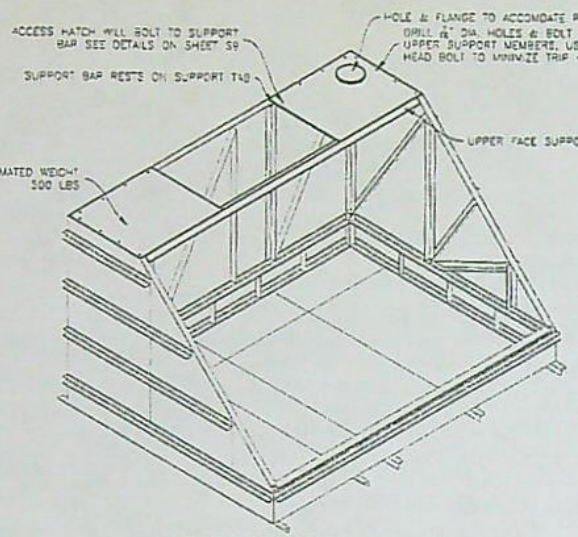
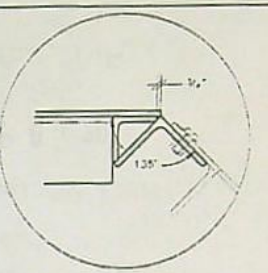
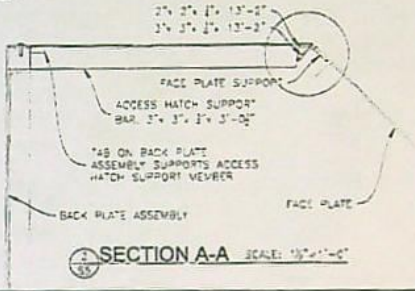


1/S5 TOP ASSEMBLY SCALE: N.T.S.
ISOMETRIC VIEW

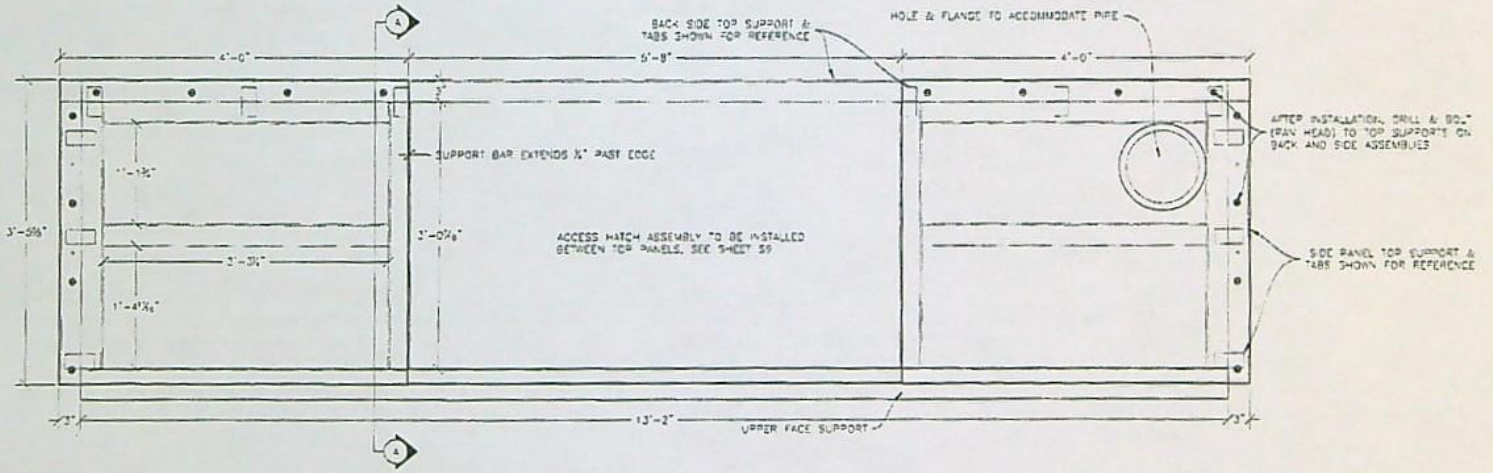
MATERIALS
1 @ 4'-0" 4'-0" PANEL
1 @ 4'-0" 4'-0" PANEL WITH PIPE HOLE
1 FLANGE FOR PIPE CONNECTION
4 @ 3'-0½" 3x3x¼" ACCESS HATCH SUPPORT
4 @ 3'-3½" 3x3x¼" ACCESS HATCH SUPPORT
1 @ 13'-2" 2x2x¼" FACE PLATE SUPPORT
1 @ 13'-2" 3x3x¼" FACE PLATE SUPPORT



3/S5 FACE PLATE SUPPORT SCALE: 3"=1'-0"



4/S5 SECTION A-A SCALE: 1½"=1'-0"



2/S5 TOP PANELS SCALE: 1½"=1'-0"
TOP VIEW

SCOTT JANSSEN
OREGON
EXPIRES: 12/31/21

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DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TOP COVER

DATE: 3-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. 5-17-2008
SHEET S5
OF

9/7/18 AM - (11X17) PLOTTED AT 100% ON DESIGN\DWG\5-17-2008 GRIZZLY FARMERS IRRIGATION\GRIZZLY FARMERS IRRIGATION.DWG - Wednesday, May 6, 2020

Exhibit 5
22 of 30

22 of 30

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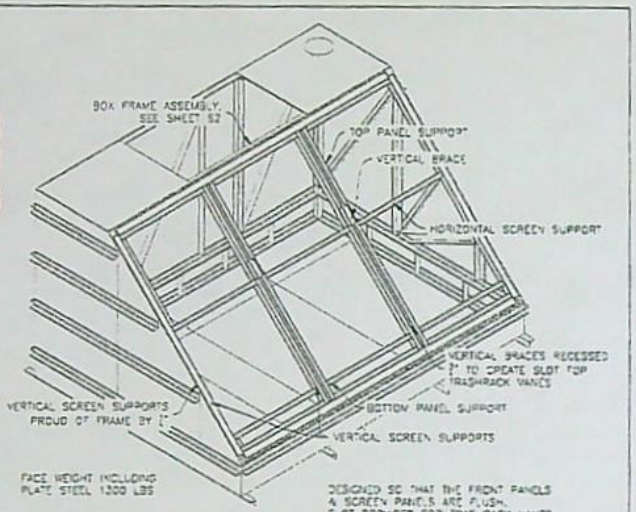
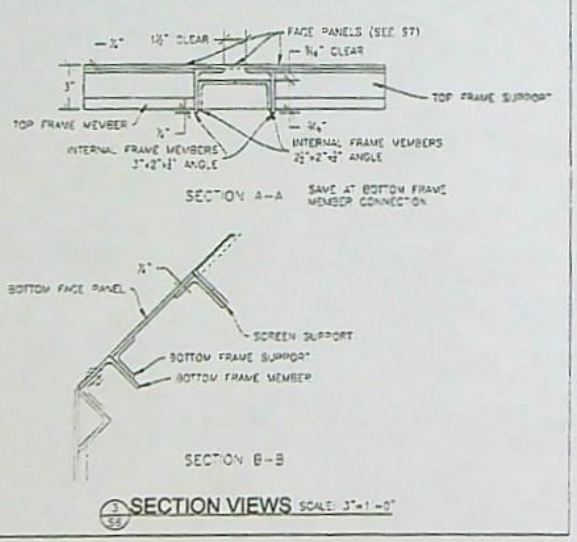


1 S6 ISOMETRIC VIEW

FACE BRACING SCALE: N.T.S.

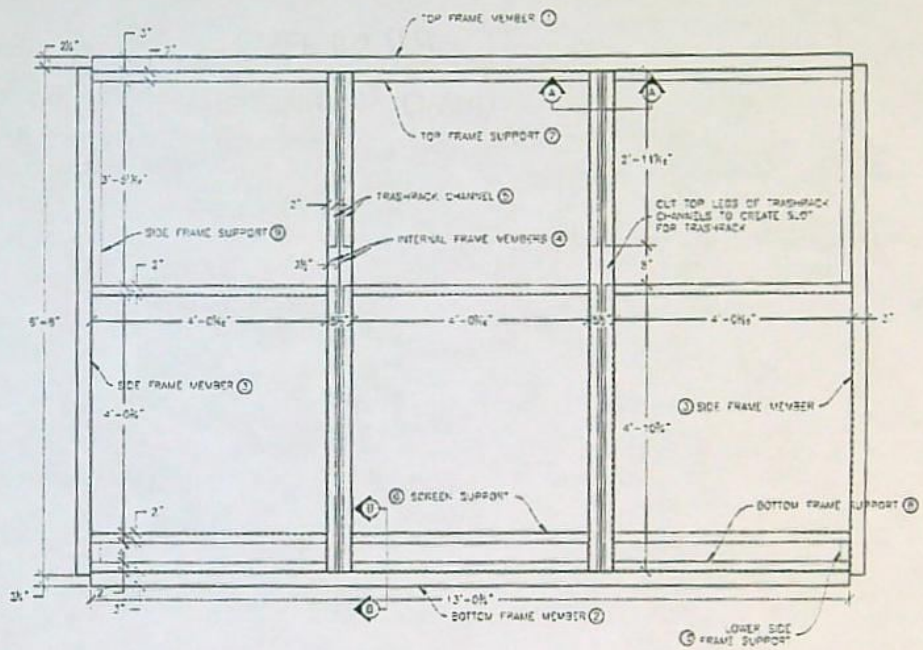


SECTION A–A

SECTION B–B

3 S6

SECTION VIEWS SCALE: 3"=1'-0"



2 S6 TOP VIEW

FACE BRACING LAYOUT SCALE: 1"=1'-0"

LABEL	DESCRIPTION	MATERIAL	LENGTH	NOTES
1	TOP FRAME MEMBER	3x3x¼"	13'-0⅝"	SEE DETAIL 4 ON SHEET S5
2	BOTTOM FRAME MEMBER	3x3x¼"	13'-0⅝"	SEE SECTION D-D ON SHEET S2
3	SIDE FRAME MEMBERS	3x3x¼"	5'-8"	2 REQUIRED, BOLT TO SIDE FRAME SUPPORTS
4	INTERNAL FRAME MEMBERS	2½x2x¼"	5'-6¼"	4 REQUIRED, WELD TOGETHER & TO TOP AND BOTTOM FRAME MEMBERS
5	TRASHRACK CHANNEL MEMBERS	2x3x¼"	5'-6¼"	4 REQUIRED, SEE SECTION A-A
6	SCREEN SUPPORTS	2x2x¼"	4'-0¼"	6 REQUIRED, SEE SECTION B-B
7	TOP FRAME SUPPORT	3x2x¼"	4'-0¼"	3 REQUIRED, ½" LOWER THAN TOP FRAME, TO SUPPORT FACE PANEL
8	BOTTOM FRAME SUPPORT	3x2x¼"	4'-0¼"	3 REQUIRED, SEE SECTION B-B
9	SIDE FRAME SUPPORT	3x2x¼"	3'-9½"	2 REQUIRED, ½" LOWER THAN SIDE FRAME, TO SUPPORT FACE PANEL
10	LOWER SIDE FRAME SUPPORT	2x2x¼"	0'-4"	2 REQUIRED, ½" LOWER THAN SIDE FRAME, TO SUPPORT FACE PANEL

½" PLATE WELDED TO FACE BRACING, SEE SHEET S7 FOR PANEL DETAILS

AFTER ASSEMBLY, DRILL FRAME MEMBERS, FACE, AND SUPPORT MEMBERS (TOP, SIDES, & BOTTOM). BOLT USING PAN HEAD SCREWS, WASHERS, & NUT. PAN HEAD ON OUTSIDE FRONT FACE.

REGISTERED PROFESSIONAL ENGINEER — OREGON — SCOTT JANSEN — EXPIRES: 12/31/21

Oregon — DEPARTMENT OF FISH AND WILDLIFE — FISH DIVISION — FISH SCREENING AND PASSAGE PROGRAM — 4034 FAIRVIEW INDUSTRIAL DR. S.E. — SALEM, OREGON 97302 — PHONE: (503) 947-6221 FAX: (503) 947-6203

OREGON — Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FACE BRACING

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S6
OF

XAPPREF(FISHSCREEN_CONSTR_17_0008_TIMPSON_CRANBERRY FARMERS_WIDEPASSAGE_MODIFICATIONS.DWG - Wednesday, May 6, 2020 9:21:27 AM - 11X17 PLOTTED AT HALF SCALE

Exhibit 5
23 of 30

Exhibit 5
23 of 30

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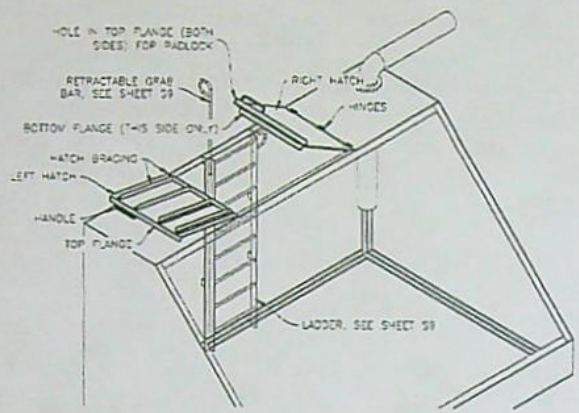
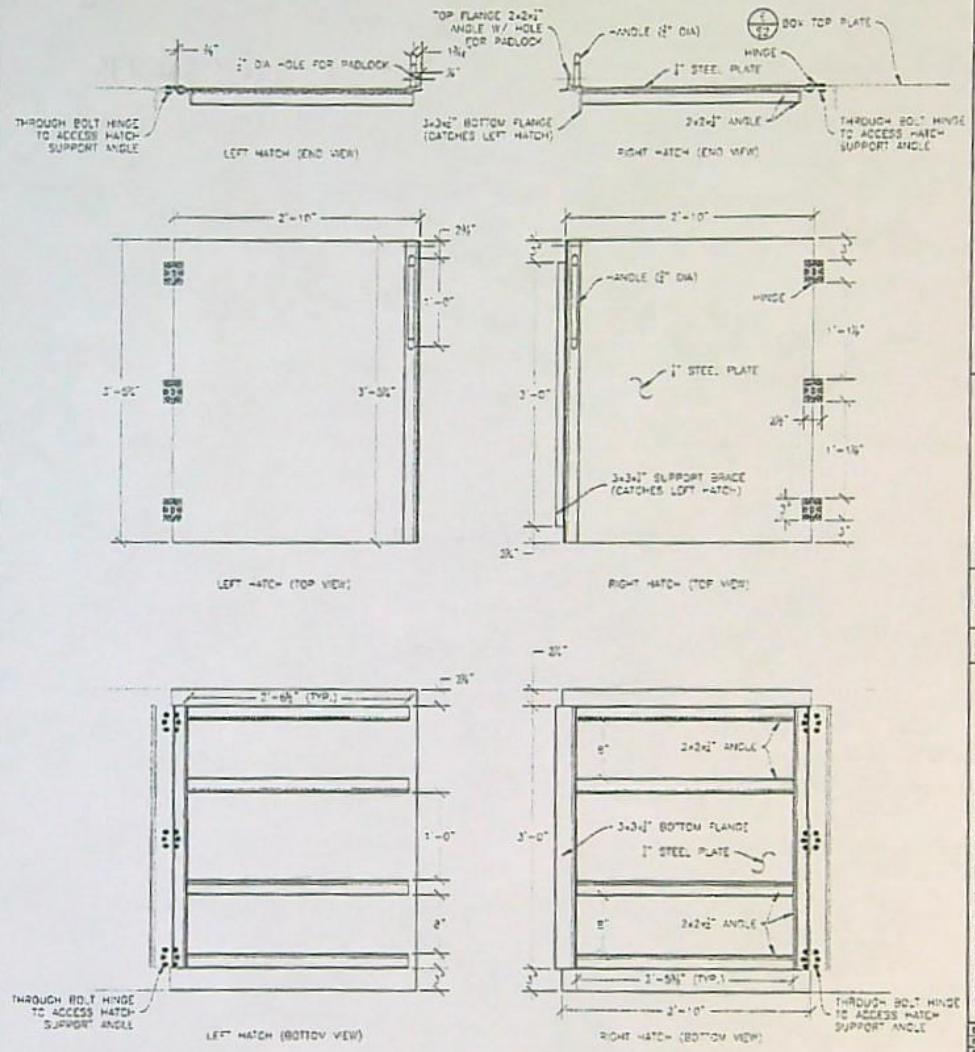


1 S8 ACCESS HATCH SCALE: N.T.S
ISOMETRIC VIEW

MATERIALS LIST

2	½" STEEL PLATE	2'-10" x 3'-5½"
4	2x2x¼" ANGLE	2'-6½"
4	2x2x¼" ANGLE	2'-3½"
2	2x2x¼" ANGLE	3'-0"
1	3x3x¼" ANGLE	3'-0"
2	2x2x¼" ANGLE	3'-5½" WITH HOLE FOR PADLOCK
2	HANDLES	¾" DIA. ROUND BAR
6	HEAVY DUTY HINGES	



2 S8 HATCH DETAILS SCALE: 1½"=1'-0"

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FISH SCREENING AND PASSAGE PROGRAM
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SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

OREGON Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
ACCESS HATCH

DATE: 5-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S8
OF

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9:21:33 AM - 11X17 PLOTTED AT HALF SCALE

Received by OWRD
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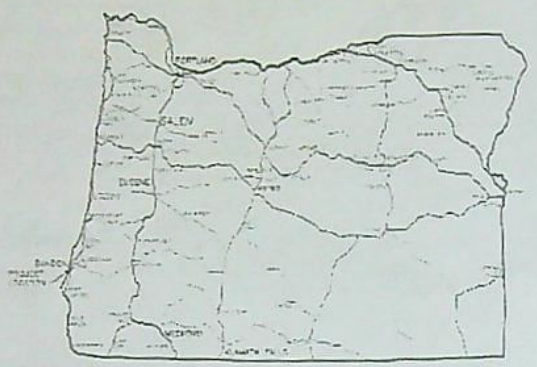
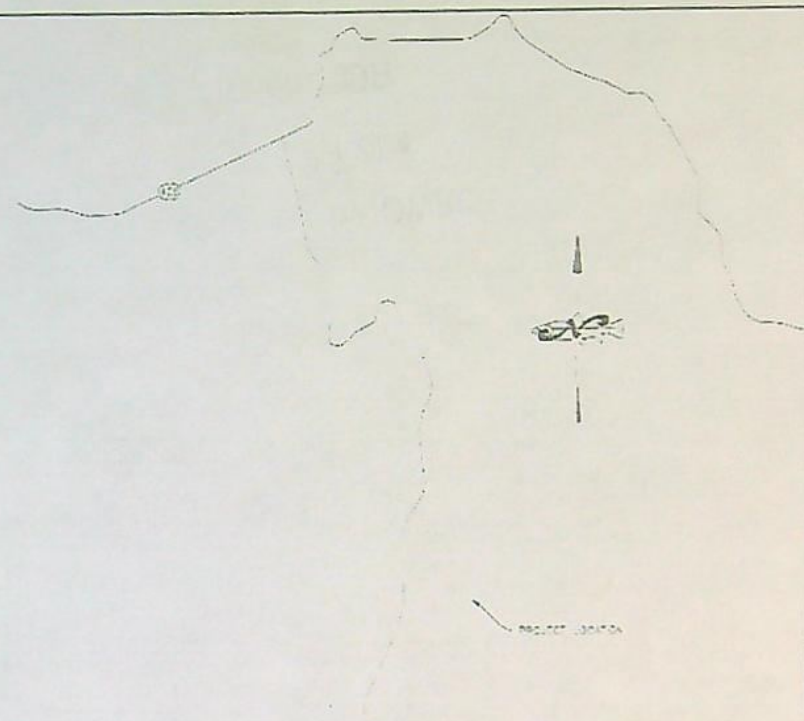
Salem, OR



LOCATION MAP SCALE: N.T.S.



VICINITY MAP SCALE: N.T.S.

Sheet List Table

SHEET NUMBER	SHEET TITLE
G1	TITLE SHEET
G2	SPECIFICATIONS 1 OF 2
G3	SPECIFICATIONS 2 OF 2
C1	VICINITY MAP
C2	EXISTING SITE PLAN
C3	PROPOSED SITE PLAN
C4	LAYOUT PLAN & PROFILE
C5	CROSS SECTIONS
S1	SUMP BOX
S2	FLOOR TAIL
S3	SIDE WALLS
S4	BACK WALL
S5	TOP COVER
S6	FACE GRADING
S7	FACE PANELS & SCREEN
S8	ACCESS HATCH
S9	LADDER
S10	TRASHRACK

OREGON CRANBERRY FARMERS, BILL CREEK

OWNER
JOHN ROTH
PO BOX 362
BANDON, OR 97411

OREGON CRANBERRY FARMERS - WINDHURST
PROJECT # 5-17-0005
LAT 43.08578° LONG -124.34739°
WATER RIGHT 2.75 CFS

SCREENS INFORMATION
PUMP FROM SUMP BOX EQUIPPED WITH
WEDGEWIRE PASSIVE SCREEN 12 x 4 (48SF)

ENGINEER
OREGON DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL RD SE
SALEM OR 97302

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL RD SE
SALEM, OREGON 97302
PHONE: (503) 947-6221 FAX: (503) 947-6202

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TITLE SHEET

DATE: 4/29/2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-15-3127
SHEET G1

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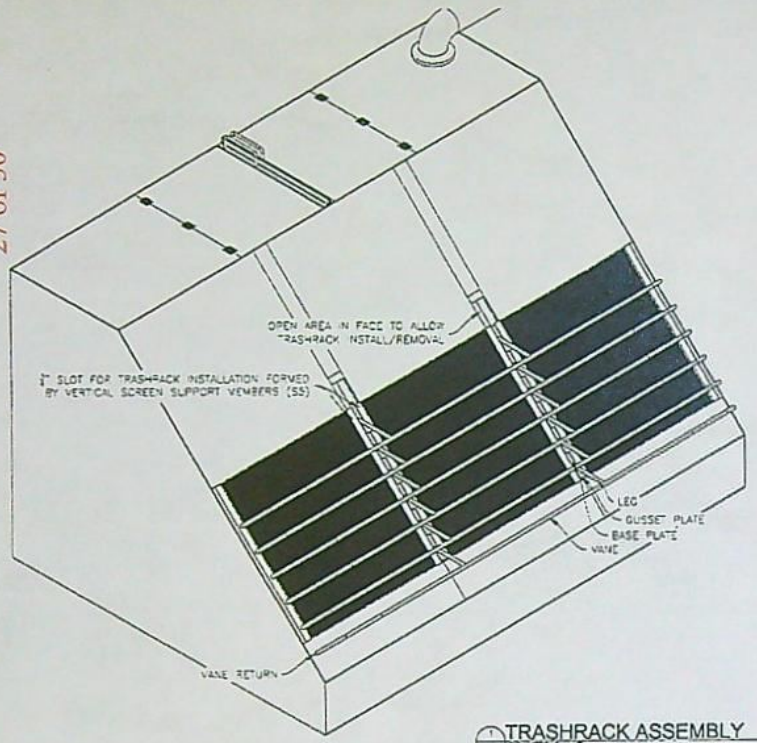
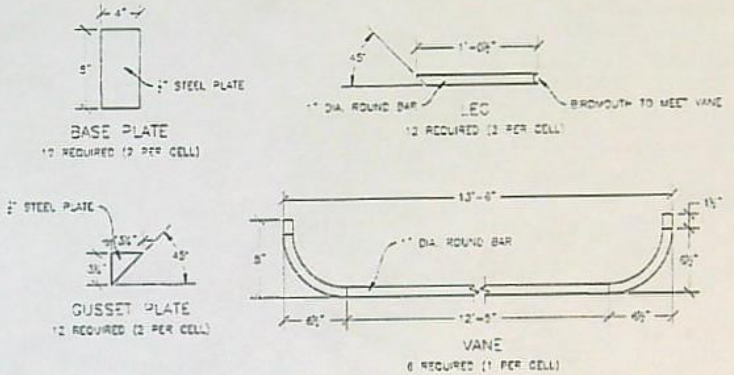
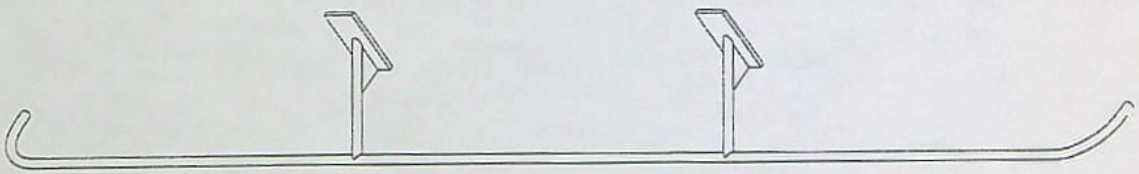
Exhibit 5
27 of 30



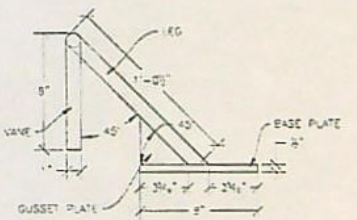
TRASHRACK ASSEMBLY SCALE: N.T.S.
S10 ISOMETRIC VIEW



TRASHRACK COMPONENTS SCALE: 3"=1'-0"
S10



TRASHRACK CELL SCALE: 3"=1'-0"
S10 ISOMETRIC VIEW
6 REQUIRED



TRASHRACK CELL SCALE: 3"=1'-0"
S10 SIDE VIEW

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DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
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SALEM, OREGON 97302
PHONE (503) 947-6224 FAX: (503) 947-6203

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TRASHRACK

DATE: 8-8-2020
DESIGN BY: BTJ
DRAWN BY: BTJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S10
OF

REV. | DATE | DESCRIPTION

K:\PROJECTS\S-17-0008 OREGON CRANBERRY FARM SS MARKS\DWG\CONSTRUCTION DRAWINGS\S-17-0008 - Marks.dwg, 8/21/2020 8:21:42 AM, 11X17 PLOTTED AT 1/64" SCALE

Exhibit 5
27 of 30

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SEP 05 2024
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Exhibit 5
28 of 30

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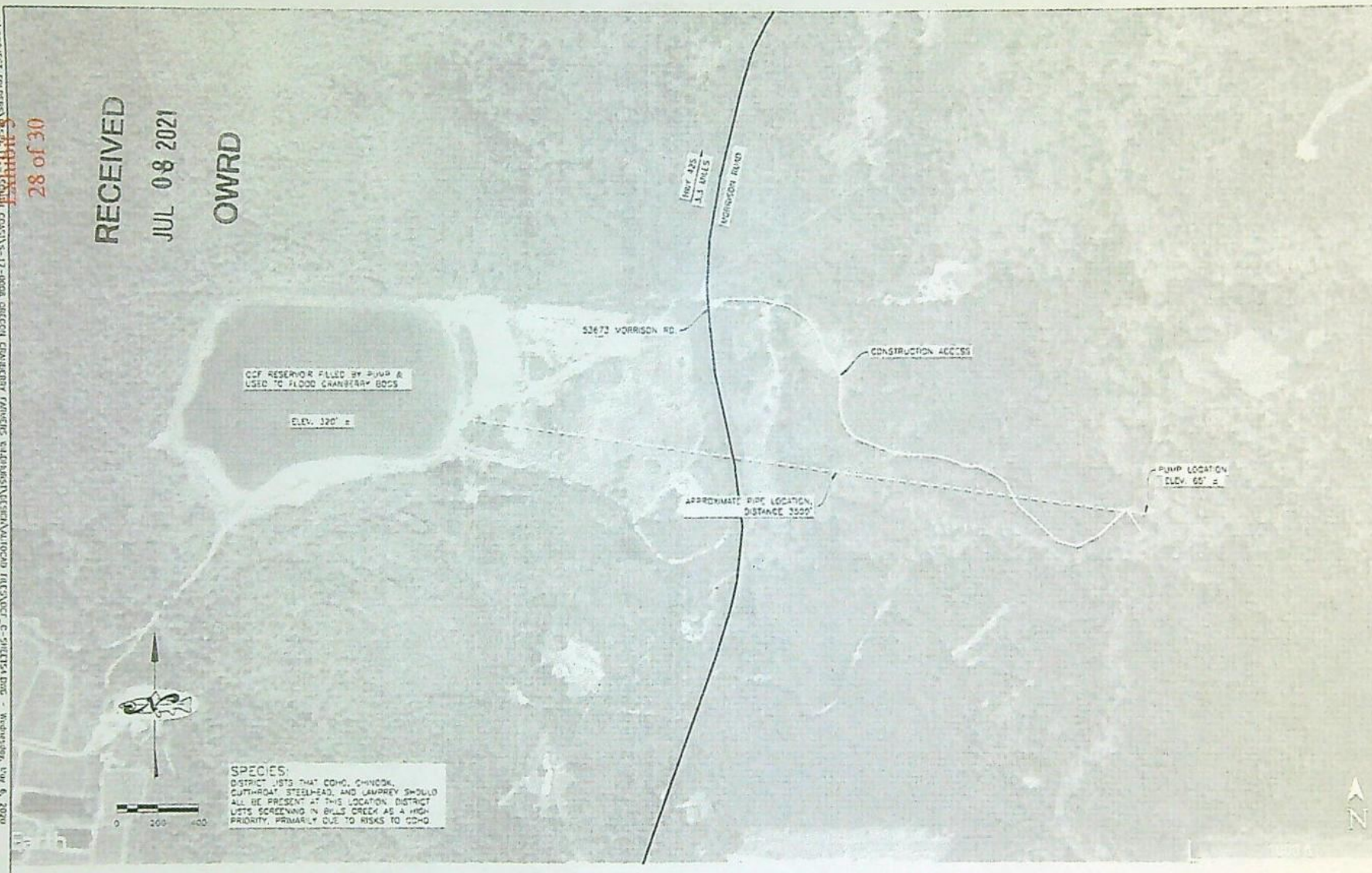

VICINITY MAP SCALE: 1"=20'-0"

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
VICINITY MAP

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET C1
OF

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
1314 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
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REV. DATE DESCRIPTION

Exhibit 5
28 of 30

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SEP 05 2024
Salem, OR

Exhibit 5
29 of 30

EXHIBIT C - APPLICATION

Fish Screening and Passage Program
Oregon Department of Fish and Wildlife

Cost Share Grant Application

ODFW USE ONLY	Title: Oregon Cranberry Farmers - Windhurst		Project #: S-17-0008
Project Type: S	Activity: Replacement	Amount: $65,037.20	Date received:

APPLICANT- Fill In	CONTACT INFORMATION	
APPLICANT, CO-APPLICANT, PROJECT CONTACT, WATER USER, LAND OWNER, DIVERSION OWNER	Name: Roth, John	Work phone: 541-347-2437
	Title:	Home phone:
	Business Name: Bandon Cranberry Water Control District	Cell/Other: 541-297-6292
	Mailing Address: 555 Hwy 101	Fax:
	City/State/Zip: Bandon, OR 97411	Email:

Applicant- Fill In	DIVERSION DETAILS	
Diversion Name: Oregon Cranberry Growers - Windhurst		Diversion Flow Relative to Stream Flow (%): 50.000
GPS Based Diversion Location		
Latitide: 43.08678		Longitude: -124.34739
Digitally Derived Diversion Location		
Latitide: 43.08676	Longitude: -124.34725	County: Coos
Basin: South Coast	District: Umpqua	Stream: Bill Creek
Quarter:	House District: 1	Senate District: 1
HUC: 17100305	Watershed Council Area: Coquille Watershed Association	
LLID: 1243369431063	Tributary Of: Bear Creek	
Notes:		

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Water Rights

Water Permit Number	Water Permit Date	Water Certificate Number	Water Certificate Date	Water Right CFS	Comments
S-53703	6/30/1988			2.75	
Total Water Right CFS:				2.75	

Water Use

Water Use	Water Period	Description
Irrigation	Jan, Feb, Mar, Apr, May, Nov, Dec	POD is used during winter months to supply reservoir

Applicant- Fill In	PROJECT INFORMATION
Summary: A screened vault will be installed to replace a failed pump screen on Bill Creek, near Bandon in Coos County.	
Purpose: ODFW cost shared a Sure-Flo screen for a pump intake that is only used during the winter months. The screen failed almost immediately due to the high flows and large amounts of debris that the site regularly experiences. Rather than continuing to deal with the ongoing damage to the intake pipe and screen, the preferred solution is to install a screened vault within the bank, which will be much less susceptible to high-flow damage. The design has already been completed by ODFW. ODFW considers the stream to be a high priority for screening due to the presence of listed coho. Chinook, cutthroat, steelhead and lamprey are also	

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present.		
Estimated TimeLines: The screen shop plans to purchase the materials this spring, and do the fabrication as time allows. Late summer 2021 is the preferred time for installation, but meeting that goal will depend on how well the shop's other scheduled projects go.		
Requesting ODFW Engineering Assistance?: Yes	Stream Miles Made Accessible: 0	
GPS Based Project Location		
Latitide: 43.08675	Longitude: -124.34724	
Digitally Derived Project Location		
Latitide: 43.08676	Longitude: -124.34725	County: Coos
Basin: South Coast	District: Umpqua	Stream: Bill Creek
Quarter:	House District: 1	Senate District: 1
HUC: 17100305	Watershed Council Area: Coquille Watershed Association	
LLID: 1243369431063	Tributary Of: Bear Creek	
Notes:		

ODFW Use Only	SPECIES
Project yet to be reviewed by ODFW Team.	

Screen Priority Points		
Diversion flow relative to stream flow (%): 50.000	Diversions Screened in stream (%): 20% - 40%	Amount of Water Screened: 2.75 (cfs)
Fish Species Status:	Fish Migration:	Fish Numbers:
Habitat Quality:	Basin Priority:	Total Points: 0
Screen Details		
Diversion Type: Pump	Fish Screen Brand: na	Fish Screen Model: na
Installation: Pre-fabricated	Cleaning System: Other	Orientation: N/A
Additional Information: Screen will be a pump vault installed in the bank, with a passive panel screen (3 panels, 4ft x 4ft ea), and trashrack.		

Comments/Recommendations	
District Biologist	
Field Coordinator	
Screen Shop Manager	
State Coordinator	
Program Manager	

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M. JOHN YOUNGQUIST
WATER RESOURCES CONSULTANT

827 SE MOSHER
ROSEBURG, OREGON 97470
PHONE/FAX: (541) 672-5692

PROJECT MANAGEMENT PERMITS/LICENSING RESEARCH PLANNING

September 18, 1996

Mr. Dwight French
Oregon Water Resources Department
158 12th Street, N.E.
Salem, Oregon 97310

Re: File No. R-69708

Dear Mr. French:

Enclosed find a supplemental sheet to accompany the application map describing each reservoir by coordinates from a recognized corner and a protest to the proposed final order.

In addition, you requested the names and addresses of affected property owners associated with this application. The names and addresses of property owners not associated with the applicants is noted under the remarks section of each reservoir application. I assume that the request is for the names and addresses of the participants within the sub district. We did not realize that the Department desired to have each sub district member's address at the time of filing. Their addresses are:

Ronny & Gloria Haga
Route 1, Box 2095
Bandon, Oregon 97411
Phone: 541-347-2295

David F. Richert
Box 86
Bandon, Oregon 97411

Phone: 541-347-2710

Bruce L. Manicke
P. O. Box 584
Bandon, Oregon 97411
Phone: 541-347-2622

Wayne R. Scherer
Bonnie L. Scherer
P. O. Box 503
Bandon, Oregon 97411
Phone: 541-347-3062

Please contact me if additional information is needed

Yours truly,

M. John Youngquist

cc: Windhurst Road Sub District

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Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time for Permit S-53703, Water Right Application S-69654 in the name of Windhurst Water Inc.	)))	FINAL ORDER

Permit Information

Application:	S-69654
Permit:	S-53703
Basin:	South Coast / Watermaster District 15
Date of Priority:	June 30, 1988
Source of Water:	Bill Creek, a tributary of Bear Creek, and legally stored water under Permit R-12928
Purpose or Use:	cranberry operations on 162.4 acres, agricultural use on 27.7 acres, and supplemental cranberry operations on 18.1 acres
Maximum Rate/Volume:	614.0 acre-feet (AF) of stored water; not to exceed 2.75 cfs combined under Permit R-12928 and S-53703 from Bill Creek

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

Appeal Rights

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Application History

Permit S-53703 was issued by the Department on October 10, 2000. The permit specified completion of construction by , and complete application of water to beneficial use by, October 1, 2005. The most recent extension authorized completion of construction and complete application of water to beneficial use by October 30, 2019. On September 13, 2021, Jack Haga of Windhurst Water Inc. submitted an Application for Extension of Time for Permit S-53703. In accordance with OAR 690-315-0050(2), on November 23, 2021, the Department issued a Proposed Final Order proposing to extend the time to complete construction from October 1,

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2005, or October 30, 2019, to October 1, 2024, and the time to apply water to full beneficial use from October 1, 2005, or October 30, 2019, to October 1, 2024. The protest period closed January 7, 2022, in accordance with OAR 690-315-0060(1). No protest was filed.

FINDINGS OF FACT

The Department adopts and incorporates by reference the findings in the Proposed Final Order dated November 23, 2021.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to the following conditions:

LIMITATIONS AND CONDITIONS

1. **Last Extension Condition**
   This may be the last extension of time granted for Permit S-53703. Future extensions of time request will only be approved for a period of two years, and will only allow for the demonstration of compliance with permit conditions. No additional development of the beneficial use will be authorized beyond October 1, 2024. ORS 539.010(5); OAR 690-315-0040.

CONCLUSION OF LAW

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

ORDER

The extension of time for Application S-69654, Permit S-53703, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 30, 2019, to October 1, 2024.

DATED: January 28, 2022

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

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- If you have any questions about statements contained in this document, please contact Permit Extension Specialist at (503)979-3213.
- If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900

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Application for Extension of Time

In the Matter of the Application for an Extension of Time	)	PROPOSED
for Permit R-12928, Water Right Application R-69708	)	FINAL
in the name of Windhurst Road Watering Corporation	)	ORDER DENIAL

Permit Information

Application:	R-69708
Permit:	R-12928
Basin:	South Coast / Watermaster District 15
Date of Priority:	September 6, 1988 for 100.0 AF; June 1, 1994 for 514.0 AF
Source of Water:	Bill Creek, a tributary of Bear Creek
Storage Facilities:	23 reservoirs being Windhurts: Haga 1, 2, 3, 4; Bee Sting; Scherer 1, 2, 3, 4, 5, 6, 7, 8; Manicke 1, 2, 3, 4; Richert 1, 2, 3, 4, & 5
Purpose of Use:	to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614 acre-feet (AF) each year, being 470 AF in Windhurts, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5
Maximum Rate:	2.75 cubic feet per second (cfs) maximum combined rate between Permits R-12928, and S-53703

Please read this Proposed Final Order in its entirety.

In summary, the Department proposes to:

- Deny an extension of time to apply water to full beneficial use from October 30, 2019, to October 1, 2024.

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

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ACRONYM QUICK REFERENCE
Department – Oregon Water Resources Department
PFO – Proposed Final Order
AF - acre-feet
cfs – cubic feet per second
ODFW – Oregon Department of Fish and Wildlife

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AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(2) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefor; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides that in order to approve an application for an extension of time to complete construction or apply water to full beneficial use, the Department shall make the findings in OAR 690-315-0040(1) including a finding that there is "good cause" to approve the extension. OAR 690-315-0040(2)-(4) contain the factors that the Department must consider to make findings that support a "good cause" determination.

FINDINGS OF FACT

1. On October 10, 2002, Permit R-12928 was issued by the Department. The permit authorizes the storage of up to 614 AF of water each year, being 470 AF in Windhurts, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5 from Bill Creek, a tributary of Bear Creek, to be appropriated under Permit S-53703 for cranberry operations. The permit specified complete application of water was to be made on or before October 1, 2005.

2. On February 1, 2016, an assignment from Windhurts Road Watering Corporation, to Windhurst Subdistrict c/o Bandon Cranberry Water Control District, Northwest Farm Credit Services, FCLA, and Windhusrt Road Watering Corporation was recorded in the records of the Water Resources Department for R-12928.

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3. Two prior permit extensions have been granted for Permit R-12928. The most recent extension resulted in the completion dates for full application of water being extended to October 30, 2019.

4. On September 13, 2021, the permit holder, Scott R. Vierck, chairman of Windhurst Road Watering Corporation, submitted an "Application for Extension of Time" to the Department, requesting the time to apply water to full beneficial use under the terms of Permit R-12928 be extended from October 30, 2019, to October 1, 2024.

5. Notification of the Application for Extension of Time for Permit R-12928 was published in the Department's Public Notice dated October 12, 2021. No public comments were received regarding the extension application.

Review Criteria [OAR 690-315-0040]

In order to approve an application for an extension of time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction, pursuant to ORS 537.248, the Department must make the findings in OAR 690-315-0040(1)(a) – (d).

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

6. On September 13, 2021, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

7. Construction of the water system authorized under Permit R-12928, began prior to permit issuance.

Based on FOF 7, the Department has determined the permit holder has satisfied the condition requiring beginning of construction of the water works.

Good Cause [OAR 690-315-0040(1)(d)]

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

In order to make a finding of "good cause" to approve the extension, the Department shall consider whether the applicant has demonstrated "reasonable diligence" in previous performance under the permit. OAR 690-315-0040(2)(a). In determining "reasonable diligence", the Department shall consider, but is not limited to, the following factors: a) The amount of construction completed within the time allowed in the permit or previous extension; b) The amount of beneficial use made of the water during the permit or previous extension time limits; c) Water right holder conformance with the permit or previous extension conditions; and d) Financial investments made toward developing the beneficial use of water.

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Amount of Construction [OAR 690-315-0040(3)(a)]
The amount of construction completed within the time allowed in the permit and previous extensions.[1]

8. Construction of the water system began prior to the permit issuance.

9. Work was completed during the original development time frame under Permit R-12928 as identified in the Applications for Extension of Time submitted March 6, 2009, and September 26, 2014.

10. During the most recent extension period, being from October 1, 2014, to October 30, 2019, the required staff gages and meters were installed.

The Application provides evidence that progress of physical work, enough to qualify as the minimum necessary, has been made towards completion of the water system for the Department to find good cause and reasonable diligence towards complete application of water to a beneficial use.

Compliance with Conditions [OAR 690-315-0040(3)(c)]
The water right permit holder's conformance with the permit and previous extension conditions.

11. The Department has considered the permit holder's compliance with conditions, and did not identify any concerns.

Based on FOF 11, the Department has determined that the permit holder has demonstrated compliance with permit conditions.

Beneficial Use of Water [OAR 690-315-0040(3)(b)]
The amount of beneficial use made of the water during the permit or previous extension conditions.

12. The Application identifies that 614.0 AF of water from Bill Creek has been stored in the 23 reservoirs authorized by the permit.

13. The Application identifies a maximum diversion rate from Bill Creek as 2.75 cfs.

Based on FOF 11 12, and 13, the Department has determined that full beneficial use of water has been demonstrated under this permit because permit conditions were satisfied by the October 30, 2019.

continued on following page

[1] **"Actual Construction"** is defined in OAR 690-315-0020(3)(d)(A)and(B) as physical work performed toward completion of the water system which demonstrates the water right permit holder's good faith and intention to complete the project with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land or planting crops.

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Financial Investments to appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]

14. An invested approximately $1,694,367, in the development of this project. The Application identifies installation of a new diversion on Bill Creek and consolidation and construction of reservoirs.

Based on FOF 14, the Department has determined an investment towards the development of Permit R-12928 has been made.

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

The Application provides evidence that work has been accomplished towards completion of the water system; the permit holder has demonstrated compliance with permit conditions, and; the full volume of water has been stored in the 23 authorized reservoirs. The Department has determined the applicant has demonstrated reasonable diligence in previous performance under Permit R-12928.

The Market and Present Demands for Water [OAR 690-315-0040(4)(a-f)]

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

- *(a)The amount of water available to satisfy other affected water rights and scenic waterway flows;*
- *(b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);*
- *(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;*
- *(d) Economic investment in the project to date;*
- *(e) Other economic interests dependent on completion of the project; and*
- *(f) Other factors relevant to the determination of the market and present demands for water and power.*

OAR 690-315-0040(4)(a)
The amount of water available to satisfy other affected water rights and scenic waterway flows.

15. A review of the amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-12928; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an Application for a new water right is submitted.

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16. Current Water Availability Analysis for the Bear Creek, (Tributary to Coquille River) at the mouth (watershed ID 70230) show that no water is available during the months of August, September and October at the 50% exceedance level.

OAR 690-315-0040(4)(b)
Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).

17. The points of diversion is located on Bill Creek, a tributary of Bear Creek, and is not located within a Withdrawn Area.

18. Bill Creek, a tributary of Bear Creek is not located within or above a state or federal scenic waterway.

19. The point of diversion is in a location listed by the Department of Environmental Quality as a water quality limited stream. Bear Creek, Watershed Unit (1st through 4th order streams) listed under Water Quality Limited for BioCriteria, Dissolved Oxygen, and Temperature.

OAR 690-315-0040(4)(c)
The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.

20. Bill Creek, a tributary of Bear Creek is located within an area ranked "highest" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife.

OAR 690-315-0040(4)(d)
Economic interests dependent on completion of the project.

21. An approximate total of $1,694,367 has been invested in the project.

OAR 690-315-0040(4)(e)
Other economic interests dependent on completion of the project.

22. Individual families utilize water from this permit for their cranberry operations.

OAR 690-315-0040(4)(f)
Other factors relevant to the determination of the market and present demand for water and power.

23. No other factors relevant to the determination of the market and present demand for water and power have been identified.

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Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

24. The use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

25. The Application identifies that Oregon Department of Fish and Wildlife (ODFW) have requested improvements to the diversion on Bill Creek.

26. According to the Application, and previous applications for extension of time, the permit holder has identified that an ODFW compliant fish screen was installed in 2002.

Though ODFW is requesting an update to the intake, it is not considered a requirement that delayed the development of the water use authorized by the permit because the permit holder has identified that the required fish screen had been installed within the time authorized by the permit.

Unforeseen Events [OAR 690-315-0040(2)(h)]

27. The Application identifies the original landowners have passed away in the last few years.

Denial of an Extension Would Result in Undue Hardship [OAR 690-315-0040(2)(i)]

28. The Application identifies an undue hardship would result for the families who depend on water from these reservoirs for income.

29. According to the Application, the full volume of water has been stored in the 23 authorized reservoirs.

The Department has determined an undue hardship would not result from the denial of this extension of time because the Application has indicated that the permit is fully developed. Because the permit has been fully developed, within the time authorized by the previous extension of time, an extension of time is unnecessary and unwarranted. The Department instructs the permit holder to submit a Claim of Beneficial Use.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

30. The Application provides evidence of good faith of the appropriator under Permit

Based on Findings of Fact 7, through 14, and 21, above, the Department finds that the Applicant has demonstrated good faith.

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Duration of Extension [OAR 690-315-0040(1)(c)]

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

31. As of September 13, 2021, the permit holder states the remaining work to be completed consists of consolidating existing reservoirs and constructing new reservoirs.

32. The Application identifies that the full volume of water has been stored in the 23 authorized reservoirs, in compliance with the terms and conditions of the permit within the time authorized. Consolidation of existing reservoirs and construction of additional reservoirs would require a new permit to either increase the authorized volume of water in the 23 reservoirs, or to authorize a new reservoir for the additional storage.

Based on FOF 11, 12, 13, 26, 31, and 32, the Department has determined the request for an extension of time from October 30, 2019, to October 1, 2024, is not reasonable or necessary because the Application identifies that the development of the authorized volume, rate, and number of reservoirs was completed; and compliance with all conditions has been demonstrated by October 30, 2019.

Good Cause *[OAR 690-315-0040(1)(d)]*

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has not shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

CONCLUSIONS OF LAW

1. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).

2. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

3. The application established construction of the 23 reservoirs is complete, the storage of the permitted volume of water has occurred, and compliance with conditions has been demonstrated within the time authorized by the permit and previous extensions. OAR 690-315-0040(1)(c)

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PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Deny the time to apply water to beneficial use under Permit R-12928 from October 30, 2019, to October 1, 2024.

DATED: November 23, 2021

Dwight French, Administrator
Water Right Services Division

If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100 and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **January 7, 2022,** being 45 days from the date of publication of the proposed final order in the Department's weekly notice.

2. A written protest shall include:

   a. The name, address and telephone number of the petitioner;
   b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
   c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
   d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
   e. Any citation of legal authority supporting the petitioner, if known;
   f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
   g. The applicant or non-applicant protest fee required under ORS 536.050.

3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:

   a. Issue a final order on the extension request; or

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b. Schedule a contested case hearing if a protest has been submitted, and:
   1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
   2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through http://legalassistance.law.af.mil. The Oregon Military Department does not have a toll free telephone number.

- If you have any questions about statements contained in this document, please contact Jeffrey D. Pierceall at (503) 979-3213.
- If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-979-9160.
- If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
- Address any correspondence to : Water Right Services Division
  725 Summer St NE, Suite A
  Fax: 503-986-0901 Salem, OR 97301-1266

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Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time	) FINAL
for Permit R-12928, Water Right Application R-69708	) ORDER
in the name of Windhurst Road Watering Corporation	) DENIAL

Permit Information

Application:	R-69708
Permit:	R-12928
Basin:	South Coast / Watermaster District 15
Date of Priority:	September 6, 1988 for 100.0 AF; June 1, 1994 for 514.0 AF
Source of Water:	Bill Creek, a tributary of Bear Creek
Storage Facilities:	23 reservoirs being Windhurst: Haga 1, 2, 3, 4; Bee Sting; Scherer 1, 2, 3, 4, 5, 6, 7, 8; Manicke 1, 2, 3, 4; Richert 1, 2, 3, 4, & 5
Purpose of Use:	to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614 acre-feet (AF) each year, being 470 AF in Windhurts, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5
Maximum Rate:	2.75 maximum combined rate between Permits R-12928, and S-53703

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

Appeal Rights

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

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Application History

On October 10, 2002, Permit R-12928 was issued by the Department. The permit called for complete application of water to beneficial use by October 1, 2005. The most recent extension authorized completion of construction and complete application of water to beneficial use by October 30, 2019. On September 13, 2021, Scott R. Vierck, chairman of Windhurst Road Watering Corporation, submitted an Application for Extension of Time for Permit R-12928. In accordance with OAR 690-315-0050(2), on November 23, 2021, the Department issued a Proposed Final Order proposing to deny the time to apply water to full beneficial use from October 30, 2019, to October 1, 2024. The protest period closed January 7, 2022, in accordance with OAR 690-315-0060(1). On December 20, 2021, a timely protest was received. The protest asserted the denial of the extension did not adequately take into account the movement of the point of diversion by Oregon Department of Fish and Wildlife (ODFW) after the extended completion date of October 30, 2019, and how the movement of the point of diversion affects the ability to complete a claim of beneficial use; the passing of several of the original permit applicants; and that an approval of the extension of R-12928 would align the completion timelines with those of Permit S-54073. The protest was accompanied by amended pages of the Application for Extension of Time, which included a statement that the volume of water stored to date is "unknown".

FINDINGS OF FACT

The Department adopts and incorporates by reference the findings in the Proposed Final Order dated November 23, 2021.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may not be extended.

ADDITIONAL FINDINGS OF FACT

1. On September 13, 2022, agents for the permit holder submitted additional information estimating the total volume stored in the reservoirs. The estimated volume of storage developed is approximately 553.0 AF.

Based on the additional finding of fact above, the Department has determined that diligence in the development of the water use authorized under this permit has not been demonstrated, and the Application does not provide good cause to approve an extension of time.

CONCLUSION OF LAW

The applicant has not demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

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ORDER

The extension of time for Application R-69708, Permit R-12928, therefore, is Denied.

DATED: July 7, 2023

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

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- If you have any questions about statements contained in this document, please contact Permit Extension Specialist at (503) 979-3213.
- If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900

Exhibit 10
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Oregon Water Resources Department
Protest Section
725 Summer Street NE, Suite A
Salem, OR 97301

Petition to Protest Proposed Final Order (PFO) to deny Extension Application – Permit R-12928
OAR690-315-0060 Proposed Final Order Hearing Rights

Petitioner for Protest:

Windhurst Subdistrict c/o Bandon Cranberry Water Control District Phone: 541-297-6292
P.O. Box 1832
Bandon, OR 97411

The Windhurst Subdistrict is the holder of permit R-12928.

The action denying the extension request proposed by the Department will adversely affect petitioner by inhibiting proposed efficiency measures and completion of a proper Claim of Beneficial Use (COBU).

The PFO does not adequately address the movement of the point of diversion by ODF&W after the current completion date (10/30/2019). ODF&W has proposed to improve fish screening by installing an infiltration box rather than a mechanical screen. This necessitates moving the current diversion 30+ feet upstream. The proposed screening improvement is scheduled for sometime in 2022, assuming funds are available.

OAR 690-014-0100(2) states: "*The CWRE shall provide the Department with sufficient information for the Director to determine the extent of beneficial use developed within the conditions or limits of the permit or transfer final order, including any specified time limits.*" A COBU performed after the current completion date of 10/30/2019, could not include the proposed diversion location as meeting time limits of the permit or prior extension. This in effect could damage the public interest in that the proposed fish screening improvement would essentially be from an unauthorized diversion. ODF&W and the Windhurst Subdistrict are under a cooperative contract whereby ODF&W is responsible for maintenance of fish screening devices. ODF&W has determined the proposed movement and improvement of the diversion would better protect the fishery resource.

The PFO also does not adequately address the passing of several of the original permit applicants. New owners believe slight alterations in various reservoirs as to exact size and location could significantly improve water use efficiency.

The extension of permit R-12928 would put it on the same timeline as the use of stored water under permit, S-54073, which has been extended. Requiring two separate COBU's at two different times would unnecessarily result in an undue hardship by significantly increasing costs for COBU's.

Approving the extension of time to match that of S-54073 would remedy the issues stated above.

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normthewaterguy@charter.net

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Friday, April 22, 2022 4:37 PM
To: KCJ
Cc: Norm Daft
Subject: RE: Extension R-12928 Windhurst

Hello Clay and Norm,
Please excuse my tardiness in getting back to you with a request for more information. I've been meaning to reach out to you but have been busy and .... I don't have any excuses, I just didn't get it done.
Anyway: Our extension application requirements at OAR 690-315-0020 (3eB) [below] require that you indicate to us the maximum duty of water that has been stored. This requirement doesn't fit with your situation very well because this question is a major, if not thee major, point of the extension. I apologize for not catching this when we spoke a couple months ago. My staff are sticklers for minimum application requirements for good reason – we've been sent back to the drawing board late in the process a few times when we determined, late in the process, that we didn't have a complete application.

Our previous (you and me) thinking was that once an extension was approved you would proceed with a survey to determine the actual storage capacity of all of the reservoirs on this permit then decide if there was a need to increase (or decrease perhaps) the size of any of the reservoirs to get you up to the maximum allowed under the permit. To satisfy the application requirement I propose that you provide us an estimate of how much time it will take to do the survey, then we'll put the application on hold until a survey is submitted showing the amount of water stored in each reservoir and then move forward with processing the extension application. The survey will be needed at some point anyway. I'm suggesting, in order to have a complete application, that you perform the reservoir surveys of the reservoirs now instead of later.
I can become available to discuss if you have any further questions.
By the way: Our CWRE workshop this fall will be in Roseburg and not Grants Pass. Its either the 7th or the 14th of October.
I hope you have gotten an early start towards enjoying your weekend.
Dwight

=-=-=-=-=-=-=-=-=-=-=-=-=

OAR 690-315-0020

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(3) The completed application must include the fee specified in ORS 536.050 and an application form setting forth:

(a) The name and mailing address of the water right permit holder(s);

(b) The permit number for which an extension is requested;

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(c) If the water right permit holder receives delivery of the subject water right permit from a municipality, municipal corporation, or other special district, the applicant shall provide the name of the entity and evidence that a copy of the application for extension of time has been provided to the entity responsible for delivering the water;

(d) Evidence of the actions taken to begin actual construction within the time period in the permit or previous extension:

(A) "Actual construction" means physical work performed towards completion of the water system, which demonstrates both the present good faith of the water right permit holder and the water right permit holder's intention to complete the project with reasonable diligence;

(B) "Actual construction" does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, or surveying.

(e) Evidence of progress made toward completion of the water development and application to full beneficial use, which includes but is not limited to:

(A) The annual accomplishments toward perfecting the water right under the terms and conditions of the permit, including the dates on which each condition contained in the relevant permit and any previous extension(s) was satisfied or the reason the condition was not satisfied;

(B) The maximum rate, or duty if applicable, of diversion, if any, made to date; and

(C) If for irrigation, a listing by year of the number of acres irrigated each year since permit issuance, the total number of acres irrigated to date under the permit or previous extension, and a copy of the application map showing the acres irrigated.

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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NOTE: The Salem office will re-open to the public on May 1, 2022. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8 a.m. - 5 p.m. every day. The Salem office of OWRD is closed for customer service drop-ins

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from Noon – 1pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: KCJ <kcjengineer@zoho.com>
Sent: Sunday, March 20, 2022 12:44 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight,
Please see attached amended pages.
Thanks for all your help.
Let me know if more information is needed.
Clay

---- On Mon, 14 Mar 2022 10:45:03 -0700 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

We are on the same page. Can we have the permit holder sign/date all of the amended pages? Or better yet, can you have the permit holder send in (or fax or email would be great) a new application, without fee that includes these pages I just reviewed and everything else the same?
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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From: KCJ <kcjengineer@zoho.com>
Sent: Wednesday, March 9, 2022 9:05 AM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight:
Please see the attached proposed amended extension pages R-12928. Let us know if we are on the same page per our last phone call.
Keep in mind, from our perspective, the permit holders statement in previous extensions regarding reservoirs completion were, at the time, philosophically miss-guided without professional counseling.
Thanks,
Clay

---- On Thu, 03 Feb 2022 14:57:18 -0800 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ---
-

Good Afternoon,
I'm going to try to call Clay now but if that doesn't work, I'm available from 3:30-5 today and tomorrow 830-930, 11-12 or 2-3.
It should only take 30 mins or less.
I want to propose how you could amend the current protested application to demonstrate that the development under the existing permit is either not done or might not be done after all.
Thanks,
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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From: Norm Daft <normthewaterguy@charter.net>
Sent: Wednesday, February 2, 2022 12:13 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>
Subject: Extension R-12928 Windhurst

Hi Dwight,

I received a call from several of the Windhurst Reservoir folks yesterday concerning their protest to the extension denial.

As I understand it, you have been contacted by them and have briefly discussed the matter.

I also understand there may be an opportunity to submit amendments to the application or provide additional information.

They have asked Clay and me to assist them in moving forward.

Not knowing the specifics of any discussions, we would appreciate any guidance you can provide.

It might be helpful for Clay and I to have a conference call with you to discuss how to move forward. Please let us know some times you might be available.

You can call Clay at 541-430-6926 and he can add me in or he can call you if we know what time you can be available.

Thanks for your consideration of this matter.

Norm

Norm Daft
(541) 761-1057

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CAROLLO
LAW GROUP

Dominic Carollo
Managing Attorney
dcarollo@carollolegal.com · 541-957-5900
PO Box 2456, Roseburg, OR 97470
2315 Old Hwy 99 S., Roseburg, OR 97471

August 25, 2023

Via Certified Return Receipt Requested
Receipt No. 7021 0350 0001 1743 1296

Dwight French, Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

RE: Amended Petition for Reconsideration in the Matter of the Application for an Extension of Time for Permit R-12928 in the Name of Windhurst Road Watering Corporation

Mr. Dwight French:

Our office represents Windhurst Road Watering Corporation ("Windhurst") with regards to the Oregon Water Resources Department's final order denying the application for extension of time for Permit R-12928, Water Right Application R-69708. Pursuant to ORS 183.482 and OAR 137-003-0675, please find attached Windhurst's amended Petition for Reconsideration of the final order denying Windhurst's application. This petition is timely as it was received by the Oregon Water Resources Department within 60 days following the date the order upon which the petition is based was served.

Please send any correspondence regarding this matter to:

Dominic M. Carollo, OSB No. 093057
Email: dcarollo@carollolegal.com
Carollo Law Group LLC
Mail: P.O. Box 2456
Roseburg, OR 97470
Office: 2315 Old Highway 99 South
Roseburg, OR 97471
Ph: (541) 957-5900
Fax: (541) 957-5923

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Sincerely,

DOMINIC M. CAROLLO
DMC

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BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON

IN THE MATTER OF THE APPLICATION FOR AN EXTENSION OF TIME FOR PERMIT R-12928, WATER RIGHT APPLICATION R-69708 IN THE NAME OF WINDHURST ROAD WATERING CORPORATION	AMENDED PETITION FOR RECONSIDERATION OF JULY 7, 2023 FINAL ORDER DENYING APPLICATION FOR EXTENSION OF TIME

On July 7, 2023 the Oregon Water Resources Department ("OWRD") issued a Final Order ("Final Order") denying Windhurst Road Watering Corporation's ("Windhurst") application for an extension of time for Permit R-12928, Water Right Application R-69708. *See* Exhibit 4. The Final Order notified Windhurst of the right to petition for reconsideration of the Final Order. *Id.*

Pursuant to ORS 183.482, OAR 137-003-0675, and OAR 690-001-0005, Windhurst, through its undersigned counsel, respectfully petitions OWRD to reconsider and withdraw the Final Order and grant Windhurst's application for an extension of time, or, alternatively, requests that OWRD hold a contested case hearing on the application. This Petition has been filed within 60 days of Windhurst receiving the Final Order, and is thus timely pursuant to OAR 137-003-0675. This Petition for Reconsideration is intended to supplement the Request for Reconsideration submitted by Windhurst on July 31, 2023 (Exhibit 10), and the amended Request for Reconsideration submitted by Windhurst on August 10, 2023. For the reasons set forth below, Windhurst respectfully requests reconsideration of the Final Order.

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3 of 13

I. INTRODUCTION

By all accounts the Final Order appears to stem from confusion between Windhurst and OWRD. Windhurst sincerely hopes that this Petition will clarify what have become areas of confusion, and in doing so will demonstrate why reconsideration of the Final Order is appropriate in this matter.

II. BACKGROUND

There are two water right permits which are relevant to this matter, both of which were issued by OWRD on October 10, 2000. The first is Permit R 12928, which is directly at issue here. Permit R 12928 was borne out of a need for more water by the cranberry farms located along and near Windhurst Road in Bandon, Oregon. In order to facilitate expansions of their operations, OWRD approved Permit R 12928. This permit authorizes the storage of 614 acre-feet ("AF") annually from 23 small reservoirs spread across multiple property owners.

Permit S 53703—which is not at issue here—is the right which is related to Permit R 12928, authorizing the use of the 614 AF of stored water for cranberry operations on 162.4 acres, agricultural use on 27.7 acres, and supplemental cranberry operations on 18.1 acres. Permit S 53703 is entirely reliant on the existence of Permit R 12928, and cannot exist without Permit R 12928's storage.

Permit R 12928 and Permit S 53703 were both approved by OWRD on October 10, 2000. The two permits have proceeded on parallel tracks since then, receiving multiple extensions of time given the complexity and scope of the projects, involving the construction of numerous reservoirs, cranberry bogs, water transmission and distribution infrastructure, and more across multiple landowners. On September 13, 3021 Windhurst representatives submitted applications for extensions of time for both Permit R 12928 and Permit S 53703. *See* Exhibit 3; Exhibit 4. These

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applications explained the progress Windhurst had made towards completion of the permits during the last extension period. For Permit R 12928 this included digging the Manicke Reservoir, finishing the Bee Sting Reservoir, enlarging Sherer reservoirs #1 and #2, installing water meters and staff gauges, running water lines, and more. *See* Exhibit 1 at 7. The applications also explained that three prominent property owners important to the permit area—W. Scherer, R. Haga, and F. Richert—had passed away recently. *Id.* at 11. All three of these landowners were chiefly involved with the application process for Permits R 12928 and S 53703, and the development of these permits, and their passing was a substantial step back in the permit development process. *See, e.g.*, Exhibit 7. Finally, the applications provided financial estimates of the amount of contribution and investment which had already been put towards the full completion of Permits R 12928 and S 53703. *See* Exhibit 1 at 7, 10.

OWRD, finding that Windhurst had exercised diligence and good cause in the development of the appropriation authorized by Permit S 53703, granted an extension of time for that permit on January 28, 2022. *See* Exhibit 3. However, Permit R 12928 reached a different result than its related right. On November 23, 2021 OWRD issued a proposed final order finding that Windhurst had exercised diligence and good cause, but nevertheless recommending the rejection of Windhurst's application for extension of time based on certain misstatements and representations in the application. *See* Exhibit 2. On July 7, 2023, OWRD issued its final order denying Windhurst's application pertaining to Permit R 12928. *See* Exhibit 4.

The final order denying Windhurst's application for extension of time of Permit R 12928 seems to stem from mistakes within Windhurst's application which led to confusion on behalf of OWRD. In its application Windhurst provided dates and costs illustrating the progress which was being made towards applying Permit R 12928 to its full beneficial use. However, Windhurst's

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application mistakenly stated that the maximum volume stored annually to date under Permit R 12928 at the time of the application was 614 AF—full beneficial use. *See* Exhibit 1 at 8; Exhibit 6 at 4. The application also stated that all conditions of the permit were currently met. The proposed final order relied on these mistakes within the application to find that an extension of time was not necessary because Permit R 12928 was being applied to its full beneficial use, and therefore instructed Windhurst to submit a Claim of Beneficial Use under the permit. *See* Exhibit 2 at 7. Windhurst submitted a protest in the time allowed after the proposed final order, and communicated with OWRD regarding the mistakes in the extension application. *See* Exhibit 5; Exhibit 6. In substance, Windhurst sought to explain that Permit R 12928 was not actually completed yet, and had not reached full beneficial use. Following its communications with OWRD Windhurst then sought to determine the current storage actually available under Permit R 12928. Windhurst hired a Certified Water Rights Examiner to survey the progress which had been made towards the permit, and the quantity of water which was not yet being stored under the permit. Although Windhurst submitted a timely protest no hearing was held on the application.

The Final Order correctly recognized that Windhurst had not yet brought Permit R 12928 up to full beneficial use. The Final Order found that Windhurst could store 553 of 614 AF under the permit based on the current work that had been completed. Exhibit 4 at 2. However, OWRD concluded based on this storage amount that Windhurst was not acting with diligence and good cause in the completion of Permit R 12928, and therefore denied Windhurst's application for extension of time. *Id.*

Windhurst concedes that, were it true that all permit conditions were satisfied and the full 614 AF were being stored under Permit R 12928, it was proper for the application to be denied. Unfortunately, however, Permit R 12928 is not yet applying water to full beneficial use within the

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terms and conditions of the permit. As of right now, Windhurst is capable of storing 553 AF of water from 19 of the 23 reservoirs authorized by Permit R 12928. *Id.* While Windhurst may not be currently capable of storing the full quantity of water allowed by Permit R 12928, Windhurst has exercised diligence towards obtaining full storage and had good cause for submitting an application for extension of time. Windhurst's application described the progress which had been made towards Permit R 12928, the financial expenditures which had gone into the permit, the financial hardships Windhurst had faced in bringing the Permit to full completion, the delay which had resulted from the passing of three prominent landowners affected by the Permit, and the hardship which would result if Windhurst was unable to apply Permit R 12928 to its full beneficial use. *See* Exhibit 1. For the reasons provided below, Windhurst's application therefore demonstrated good cause and Windhurst respectfully requests reconsideration of the Final Order.

III. ARGUMENT & GROUNDS FOR RECONSIDERATION

Windhurst asserts that the Final Order should be reconsidered and withdrawn for two reasons. First, irrespective of Windhurst's mistaken representation in their application, the application did demonstrate that Windhurst had exercised diligence towards the completion of Permit R 12928 and had good cause to request the extension. That Windhurst was capable of storing 553 AF at the time of the Application, as opposed to the 614 AF authorized by Permit R 12928, is not indicative of Windhurst's lack of diligence. Therefore, Windhurst respectfully requests that the extension be granted. Second, Windhurst's protest of the proposed final order, and subsequent communications with OWRD, informed OWRD of the mistaken representation in the application and raised fact issues illustrating diligence and good faith. In light of that protest and those fact issues, Windhurst respectfully asserts that OWRD should allow for a contested case hearing to resolve any lingering issues which are preventing OWRD from granting Windhurst's

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application for extension of time. For these two reasons Windhurst requests that the Final Order be reconsidered.

A. An Extension of Permit R 12928 is Warranted by Windhurst's Good Cause.

Now that the parties both recognize that Windhurst has not applied Permit R 12928 to its full beneficial use (as was mistakenly stated in the extension application and resultant proposed final order), it should be seen that Windhurst has good cause to request an extension of time.

An application for extension of time shall be granted where the applicant submitted a complete application, began construction on the project within the time period required by statute, the applicant can complete the project within the time period requested for extension, and there is good cause to approve the extension. OAR 690-315-0040. The Final Order here is based entirely on the good cause element (*see* Exhibit 4 at 2), and therefore Windhurst's good cause will be the focus of this Petition.

OWRD's "good cause" standard requires the consideration of many factors, including but not limited to:

> (a) Whether the applicant has demonstrated reasonable diligence in previous performance under the permit;
> (b) The cost to appropriate and apply the water to a beneficial purpose;
> (c) The good faith of the appropriator;
> (d) The market for water or power to be supplied;
> (e) The present demands for water or power to be supplied;
> (f) The income or use that may be required to provide fair and reasonable returns on investment;
> (g) Whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection the right;
> (h) Any unforeseen events over which the water right permit holder had no control and which delayed development under the permit;
> (i) Whether denial of the extension will result in undue hardship to the applicant and that there are no other reasonable alternatives exist for meeting water use needs; and
> (j) Any other factors relevant to a determination of good cause.

Id. "Reasonable diligence" under subsection (a) has its own factors to be considered, which are:

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(a) The amount of construction completed within the time allowed in the permit or previous extension;
(b) The amount of beneficial use made of the water during the permit or previous extension time limits;
(c) Water right permit holder conformance with the permit or previous extension conditions; and
(d) Financial investments made toward developing the beneficial water use.

Id. The "market and present demand for water" also has its own factors, which are:

(a) The amount of water available to satisfy other affected water rights and scenic waterway flows;
(b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);
(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;
(d) Economic investment in the project to date;
(e) Other economic interests dependent on completion of the project; and
(f) Other factors relevant to the determination of the market and present demand for water and power.

Id.

When all of these factors are considered, it is clear that Windhurst has good cause to request the extension. Focusing first on diligence, Windhurst has completed 19-of-23 reservoirs approved pursuant to Permit R 12928, and is capable of storing 90 percent (553 AF) of the water approved by the permit. *See* Exhibit 10. Beyond that, since the last extension Windhurst has dug the Manicke Reservoir, finished the Bee Sting Reservoir, enlarged Sherer reservoirs #1 and #2, installed water meters, and staff gauges, run water lines, and more. Exhibit 1 at 7. Factors (a) and (b) regarding reasonable diligence thus support an extension. Windhurst has also made significant financial commitments towards the completion of Permit R 12928. The work accomplished during the last extension period cost around $60,000, and the cost of the project to date is just under $1.7 million. *See* Exhibit 1. All told, Windhurst has completed a substantial amount of the construction necessary to fully satisfy Permit R 12928, and has made significant financial commitments towards

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that end. Therefore, the diligence factors described in OAR 690-315-0040 have been satisfied.

Beyond diligence, the other "good cause" factors described in OAR 690-315-0040 are present and satisfied here. Noted above, the cost of developing Permit R 12928 thus far has been around $1.7 million. *Id.* at 7. The landowners who will use the water stored under this permit have invested around $2,000,000 in the project. *Id.* at 10. There is a demand for this water because landowners have been developing cranberry bogs to be used under Permit S 53703 which will be unusable unless they are authorized to store the full duty of water under Permit R 12928. *Id.* at 11-12. Multiple family farms depend on the storage of water under Permit R 12928 for their livelihood of cranberry farming. Without this storage, producing and harvesting cranberries will be impossible and their businesses and way of life may fail. *Id.*

The water right file for Permit S 53703 further reveals that the cranberry farmers relying on Permit R 12928 will not be able to get water anywhere else to satisfy Permit S 53703. Prior to the permit applications there was serious concern about water availability in Bill Creek, Bear Creek, and the Coquille River, which resulted in the need for additional storage. *See* Exhibit 8; Exhibit 9. Permit S 53703 originally sought water from these sources in addition to water stored under Permit R 12928, but pursuant to a settlement became limited to the 614 AF stored under Permit R 12928. *Id.* If Windhurst's application for extension of time is denied and they are prohibited from applying Permit R 12928 to full beneficial use, the cranberry farms reliant on this storage will be unable to receive replacement water from another source.

Windhurst has also had development of Permit R 12928 delayed by the Oregon Department of Fish and Wildlife's requirement that the point of diversion be moved and improved. Exhibit 1 at 11. Additionally, three original landowners affected by Permit R 12928—W. Scherer, R. Haga, and F. Richert—have passed away since 2010. *Id.* A significant portion of the work which needed

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to be completed (and was completed) during the last extension cycle affected Sherer and Haga's properties. *Id.* at 7. Of the 23 reservoirs to be completed under this permit, four were Haga reservoirs, eight were Scherer reservoirs, and five were Richert reservoirs. The passing of these property owners delayed work on Permit R 12928 significantly. The impact of these property owners' passing cannot truly be understated, as these property owners were intimately involved in this water rights permitting process from its inception, playing key roles in the permits as they exist today. *See* Exhibit 7 (1996 supplement sheet describing each reservoir under permit was sent to R. Haga, W. Scherer, and F. Richert, who had been involved in the permit application process).

Additionally, a sharp decline in cranberry prices between 2012 and 2013, followed by stagnant low prices through 2019 and only a recent price rebound made it exceedingly difficult to develop Permit R 12928. *See* Joseph Raymond, *Too Many Cranberries* (Nov. 25, 2020) https://asmith.ucdavis.edu/news/too-many-cranberries. Nevertheless, Windhurst has done what it could in the last extension period to continue developing Permit R 12928 and applying it to beneficial use, and has made substantial efforts towards completing the permit. As Windhurst's extension application summed up, "[t]his is a very complex and expensive project planned to be developed over a longer period of time than allowed. There are multiple owners covered by this permit with varying timelines for completion. This permit is directly tied to the use [of] permit 2-53703 so it is difficult to separate the costs." Exhibit 1 at 11.

To summarize, over the last extension periods Windhurst took great effort to develop Permit R 12928 despite significant challenges resulting from depressed cranberry prices, the passing of property owners involved in the permit development process, changes in property ownership resulting from those owners' passing, and more. Windhurst's property owners are heavily reliant on the continued development of Permit R 12928 so that they can store the

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maximum quantity of water (614 AF), which can then be applied to beneficial use under Permit S 53703. Without this storage Windhurst will be unable to find replacement water for the unsatisfied duty under Permit S 53703. Ultimately, these facts were sufficient to warrant an extension of time for Permit S 53703. Windhurst respectfully asks that OWRD recognize the same for Permit R 12928.

Windhurst submits that OWRD was correct in its proposed final order, which found that Windhurst had demonstrated: (1) "evidence that progress of physical work, enough to qualify as the minimum necessary, has been made towards completion of the water system for the Department to find good cause and reasonable diligence towards complete application of water to a beneficial use"; (2) "compliance with permit conditions"; (3) an "investment towards the development of Permit R-12928"; and (4) "reasonable diligence in previous performance under Permit R-12928." *See* Exhibit 2. Windhurst respectfully disagrees that the Final Order correctly reversed the proposed final order regarding these factors based on Windhurst's current storage capacity of 553 AF. *See* Exhibit 4. Windhurst has exercised diligence in the development of its current storage capacity, including substantial improvements over the past extension period, and believes that the current storage capacity, standing alone, is not indicative of Windhurst's lack of diligence and good cause supporting their application for an extension.

Windhurst acknowledges that the confusion regarding whether Permit R-12928 was already put to full beneficial use at the time of the application for extension of time was a, if not the, leading factor in the denial of their application. Windhurst hopes that OWRD may be willing to put this confusion behind them and recognize Windhurst's diligence in seeking to complete Permit R-12928, and good cause reasons for applying for their extension of time. Given the facts of this matter, which satisfy the factors noted in OAR 690-315-0040, Windhurst respectfully

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asserts that good cause supports their application for extension of time, and requests that OWRD reconsider its final order and grant their extension application.

B. A Contested Case Proceeding Could Clear Up Any Remaining Confusing Facts and Concerns.

To the extent OWRD may still have some concerns regarding Windhurst's application for extension of time, or may still be confused regarding the facts necessitating the extension, Windhurst respectfully requests that OWRD reconsider its decision not to hold a contested case on this matter.

OAR 690-315-0060(3) allows OWRD to hold a contested case on an application for an extension of time where the applicant has submitted a protest. The decision to hold a contested case is within OWRD's discretion, and is appropriate where a protest raises significant disputes relating to the proposed agency action. *Id.*

Here, Windhurst's protest and subsequent communications with OWRD attempted to clarify the confusions which had resulted in the proposed final order. *See* Exhibit 5; Exhibit 6. OWRD elected not to provide an opportunity for a contested case, and denied the application for extension of time following the protest. Given the denial, it appears that OWRD may have still had concerns or misunderstandings regarding Windhurst's diligence and good cause. OWRD may still have these same concerns or misunderstandings in light of this Petition for Reconsideration. If so, Windhurst suggests that a contested case hearing may be warranted to clear up these issues before reaching a new decision on the application for an extension of time.

III. CONCLUSION

Windhurst appreciates OWRD's consideration of this Petition for Reconsideration. Windhurst sincerely hopes that this Petition provides clarity to some of the confusing facts which may have contributed to OWRD's Final Order. If OWRD has any further questions or concerns

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regarding Windhurst's application for extension of time and this Petition for Reconsideration, please feel free to direct any communications to Windhurst's undersigned counsel. With these factual issues hopefully now resolved, Windhurst submits that their application for extension of time is supported by good cause. For the reasons described herein, Windhurst respectfully requests that this petition be granted, and their application for extension of time be approved.

Dated this 25th day of August, 2023.

CAROLLO LAW GROUP
s/Dominic M. Carollo
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Roseburg, OR 97471
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Attorneys for Petitioner

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

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Application for Extension of Time for a Water Right Permit

(Non-Municipal / Non-Quasi-municipal Water Use)

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

I, Windhurst Road Watering Corporation
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

the holder of: Application Number R-69708 Permit Number R-12928 *[OAR 690-315-0020(3)(b)]*

A separate application must be submitted for each permit as per OAR 690-315-0020(2).

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88860 Windhurst Lane
MAILING ADDRESS

Bandon,Oregon,97411
CITY, STATE, ZIP

(541) 347-2295
PHONE

NA
E-MAIL ADDRESS

X **do hereby request that** the time to apply water to full beneficial use under the terms and conditions of the permit, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019.

Please Note. If the permit **does** specify a date when **construction** must be **completed**, you should request to extend both the time to apply water to full beneficial use **and** to complete construction. These dates are typically found on the permit above the signature of the Director.

and

☒ **do hereby request that** the time to complete construction of the water system, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019

Sign after completing the entire application, questions 1-11.

I am the permit holder, or have attached to this application written authorization from the permit holder, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension. I have completed the entire application.

Connie O Hoge
Signature

9/23/14
Date

Printed Name/Title Chairman

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MAIL COMPLETED and SIGNED APPLICATION with the $575 STATUTORY FEE TO:

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Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

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Submit the following items with your Application for Extension of Time:

- **The signed and completed Application for Extension of Time.**
- **$575 check to OWRD or Oregon Water Resources Department**
- **All supporting documentation and/or evidence referenced in the application.**

Reference materials needed to complete this Application:

- **Water right permit**. A copy of the water right permit can be downloaded from the Department's Website at *http://www.wrd.state.or.us* (using the link to the Water Rights Information System (WRIS). A copy of the permit may be requested from the Water Rights Division at 503-986-0801 (copy fees will apply).

- **Documentation** which demonstrates compliance with permit conditions (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification;, a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Helpful information for completing this Application:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form**. The form *Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits* is at the following link: http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml#other

- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the permit terms & conditions.

- The attached *Instructions for Completing an Application for Extension of Time for a Water Right Permit* will help you answer each question on the application. If, after reading the instructions, you need assistance, please call the Extensions Specialist at 503-986-0900.

- Permit extensions are evaluated under OAR Chapter 690, Division 315, which may be viewed at: http://www.wrd.state.or.us/OWRD/LAW/index.shtml. Please note that OWRD may require additional information, if necessary, to evaluate the application per OAR 315-0020(3)(n).

- OWRD will review applications received for completeness and will return incomplete or deficient applications per OAR 690-315-0040(1)(a) to the applicant.

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Questions to Complete this Application for Extension of Time

Please see the instruction sheet to help you answers these questions.

[OAR 690-315-0020(3)(d)]

1. **Did the "actual construction" of the water system/well drilling begin within the time specified in the permit?** ☒ **Yes** ☐ **No** ☐ **N/A,** if not specified in this permit

Date "actual construction" began is: 1960

Describe details of construction: Manicke reservoir #4 constructed

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[OAR 690-315-0020(3)(e)(A)]

2-A. Please Describe how you have complied with each standard and special condition in the original permit [and, if applicable, conditions contained in any order approving a permit amendment and/or order approving a prior extension of time].

TIP: The instruction sheet explains which typical conditions must be addressed here.

Condition Number: *Hand-number each condition on a copy of your permit (and, if applicable, any permit amendment and/or prior extension). Include a copy of your hand-numbered permit.*

CHART-A

Condition Number	Date Satisfied	Describe How Permit Condition Has Been Satisfied
		SEE ATTACHMENT A

2-B. If you have NOT complied with all applicable conditions, explain the reasons why and indicate with a date certain (in the near future) when compliance will occur.

CHART-B

Condition Number	Date Will Comply	Explain Why Each Permit Condition Has NOT Been Satisfied
5	2014	INSTALL STAFF GAGES IN SCHERER AND HAGA PONDS AFTER 2014 HARVEST. A PORTION OF THE SCHERER FARM CHANGED HANDS TO BIG HORN OWL DURING THE LAST EXTENSION PERIOD. SCHERER HAS POSSESSION OF HAGA'S STAFF GAGES AND KNOWING OF APPLICATION FOR EXTENSION OF TIME WILL BE INSTALLING THEM AFTER THE 2014 HARVEST.

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[OAR 690-315-0020(3)(e)]

3-A. Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the original permitted time period.

CHART-C (below) must be completed for all Application for Extension of Time requests. *Use chronological order.*

CHART-C

DATE	LIST & DESCRIBE WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST*
	SEE ATTACHMENT B	
DATE	**LIST & DESCRIBE WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE FOR COMPLETE APPLICATION OF WATER**	**COST***
	Date the permit was signed - find date above signature on last page of permit.	
	Date the permit specified "Actual Construction Work" shall begin ("A-Date") -not all permits contain this date.	
	Date the permit specified complete application of water to the use shall be made ("C-Date") - all permits contain this date.	
DATE	**LIST & DESCRIBE WORK ACCOMPLISHED AFTER DATE FOR COMPLETE APPLICATION OF WATER UP TO NOW** Complete if this is your first request for extension of time.	**COST***
	***Total Cost for Chart-C**	

*** If exact cost is not known, please provide your best estimate.**

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IF this is your first Application for an Extension of Time, write NA in Chart D below and proceed to question 4 at the bottom of this page.

3-B) Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the most recent extension period.

If this **is not** your 1st Application for Extension of Time request, fill out CHART-D below in addition to CHART-C above. *Use chronological order.*

CHART-D

DATE	LIST AND DESCRIBE WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD	COST*
2005	"Extended From" date for complete application of water used in the 1st (or the most recent) Application for Extension of Time.	
2009-2014	MANICKE- 50% COMPLETION OF EXTENSION TO ALL PONDS	$10,000.00
2009-2014	SCHERER - COMPLETED RES. #7, PURCHASED STAFF GAGES AND WILL BE INSTALLED AFTER 2014 HARVEST SEASON	$12,000.00
2009-2014	HAGA - PURCHASED STAFF GAGES AND WILL INSTALL AFTER 2014 HARVEST SEASON	$10,000.00
2009-2014	RICHERT - WORKED ON CONSTRUCTION OF RES. #1 & #2, PURCHASED PUMPS AND PLUMBING	$14,000.00
2014	FINAL ENGINEERING CERTIFICATION HAS BEEN COMPLETED	$3,500.00
2014	"Extended To" date for complete application of water resulting from the 1st (or the most recent) Application for Extension of Time.	
DATE	**LIST AND DESCRIBE WORK ACCOMPLISHED AFTER THE LAST EXPIRED EXTENSION PERIOD UP TO NOW**	**COST***
	Total Cost of Chart-D	**$49,500.00**

*** If exact cost is not known, please provide your best estimate.**

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[OAR 690-315-0020(3)(f)]

4. Cost of project to date: $1,780,050.00

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(The total combined cost from CHART-C and CHART-D)

[OAR 690-315-0020(3)(e)(B)]

5. Provide evidence of the maximum rate (or duty, if applicable) of water actually diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.

TIP: Report the rate used to date in the same units of measurement as specified in the permit. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

5-A) For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

Maximum measured rate used to date = _____ cfs (cubic feet per second)
or
Maximum measured rate used to date = _____ gpm (gallons per minute)
or
Acre-feet stored to date = 614 AF

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5-B) For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit including wells not currently being used.

CHART-E

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED: Well Log Number e.g. MORR 50473	IF DRILLED: Well Tag Number e.g. # 27566 or N/A	IF DRILLED: Is the actual drilled location authorized on this permit or on a permit amendment? (See 5-C below)	IF DRILLED: Maximum **measured rate** used from this well - - under this permit only (CFS or GPM)	IF DRILLED: Is this well authorized or utilized under any OTHER water rights?	IF DRILLED: If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total **measured rate** from all wells utilized under this permit								

5-C) If the drilled location of a well is not authorized on this permit, please specify its location below, or provide a map showing its location. Has or will a Permit Amendment Application been/be filed? Yes ☐ No ☐

If a Permit Amendment Application has been filed: Transfer No. T-_____

Well #_____: Actual location: _____

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Well #_____: Actual location: _____

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[OAR 690-315-0020(3)(e)(C)]

6. **Provide the total number of acres actually irrigated to date under this permit (if any).**

Surface Water Permits: I have applied water to _____ acres for irrigation to date.

Ground Water Permits: I have applied water to _____ acres for irrigation to date.

Please specify which wells are being utilized for this irrigation.

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Well #_____ Acres_____ Well #_____ Acres_____

Well #_____ Acres_____ Well #_____ Acres_____

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[OAR 690-315-0020(3)(j)]

7. **Provide a summary of future plans and a schedule to complete construction of the water system, and/or apply water to full beneficial use under the permit terms and conditions.**

CHART-F

APPROXIMATE DATE RANGE (projected)	LIST & DESCRIBE WORK TO BE ACCOMPLISHED TO COMPLETE WATER DEVELOPMENT (projected)	ESTIMATED COST (projected)
2014-2019	MANICKE - EXTENSION TO 50% OF PONDS TO FINISH	$10,000.00
2014-2019	SCHERER - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, ENLARGE RES. #1 & #2	$10,000.00
2014-2019	HAGA - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, COMPLETE BEE STING RES.	$10,000.00
2014-2019	RICHERT - FINISH CONSTRUCTION OF RES. #1 & #2, INSTALL PUMPS AND PLUMBING	$18,000.00
Year: 2019	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
8. Estimated remaining total cost to complete the water development: [OAR 690-315-0020(3)(g)]		**$48,000.00**

[OAR 690-315-0020(3)(h)]

9. **Describe the reasons why the water development was not constructed, and/or water was not beneficially used within permit time limits.** ***Provide supporting information for the reason(s) that best fits your circumstances (A, B, C or D).***

9-A) Is the project of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit? If yes, describe.

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THIS IS A VERY LARGE AND EXPENSIVE PROJECT THAT WAS PLANNED TO BE PHASED IN OVER A LONGER PERIOD OF TIME THAN ALLOWED BY THE PERMIT.

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9-B) Did the financial resources needed to develop the project preclude completion of the project within authorized time frames? If yes, describe.

FINANCIAL RESOURCES ARE LIMITED DUE TO THE UNSTABLE PRICE OF CRANBERRIES. STILL RECOVERING FROM MARKET CRASH.

9-C) Did good faith attempts to comply with other agency permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delay completion of the project? If yes, describe.

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NO

9-D) Have other unforeseen events delayed full development of the water system and use of water within the authorized time frames? If yes, describe.

ONE OF THE MAIN PARTNERS OF WINDHURST ROAD WATERING CORPORATION PASSED AWAY IN 2014.

[OAR 690-315-0020(3)(k)]

10. Justify the time requested to complete the project and/or apply the water to full beneficial use. Your justification should combine information from your answers from Questions 2-B, 7, 8, and 9 of this Application for Extension of Time. Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

INSTALL STAFF GAGES IN SCHERER AND HAGA PONDS. MANICKE HAS 50% OF THE EXPANSION TO PONDS LEFT TO FINISH. SCHERER WILL BE INSTALLING STAFF GAGES AFTER THE 2014 HARVEST AND ENLARGING RESERVOIRS #1 & #2. A PORTION OF THE SCHERER FARM WAS SOLD TO BIG HORN OWL WHO IS A NEW OPERATOR AND NEEDS TIME TO ENLARGE SCHERER RESERVOIRS # 1 & #2. HAGA WILL INSTALL STAFF GAGES AFTER THE 2014 HARVEST AND WORK ON COMPLETING BEE STING RESERVOIR WHEN EQUIPMENT BECOMES AVAILABLE. THIS PROJECT WAS VERY LARGE AND EXPENSIVE AND WAS TO BE PHASED IN OVER A LONGER PERIOD OF TIME THAN THE PERMIT ALLOWED. FINANCIAL RESOURCES ARE LIMITED DUE TO THE UNSTABLE PRICE OF CRANBERRIES.

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CWRE WILL BE MONITORING PROGRESS AND REQUESTING THAT THE PROJECT BE FINISHED WITHIN THE AMOUNT OF TIME REQUESTED.

11. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.

WE ARE UNABLE TO SEPARATE COSTS FROM THIS PERMIT AN PERMIT S-53703. PLEASE CONSIDER BOTH PERMITS TOGETHER. CWRE WILL BE MONITORING PROGRESS TO ENSURE COMPLETION OF PROJECT IN A TIMELY MANNER.

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Thank you for submitting a complete and accurate application. Remember to sign the front page. If you have questions or need assistance, please ask to speak with the Department's Extension Specialist by calling 503-986-0900 during business hours.

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INSTRUCTIONS FOLLOW ON NEXT PAGE

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STATE OF OREGON

COUNTY OF COOS

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION
PO BOX 503 (541)347-3062
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: R-69708

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK

POINT OF DIVERSION LOCATION: NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH AND 2480 FEET EAST FROM W1/4 CORNER SECTION 3

STORAGE FACILITIES: 23 RESERVOIRS BEING WINDHURST: HAGA 1,2,3,4; BEE STING; SCHERER 1,2,3,4,5,6,7,8; MANICKE 1,2,3,4; RICHERT 1,2,3,4,& 5

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER PERMIT 53703 FOR CRANBERRY OPERATIONS.

VOLUME OF USE: 614 ACRE-FEET EACH YEAR, BEING 470 ACRE-FEET IN WINDHURST, 9.1 ACRE-FEET IN HAGA #1, 5.0 ACRE-FEET IN HAGA #2, 2.9 ACRE-FEET IN HAGA #3, 6.0 ACRE-FEET IN HAGA #4, 23.0 ACRE-FEET IN BEE STING, 1.4 ACRE-FEET IN SCHERER #1, 1.4 ACRE-FEET IN SCHERER #2, 5.6 ACRE-FEET IN SCHERER #3, 7.0 ACRE-FEET IN SCHERER #4, 1.5 ACRE-FEET IN SCHERER #5, 4.2 ACRE-FEET IN SCHERER #6, 7.7 ACRE-FEET IN SCHERER #7, 4.2 ACRE-FEET IN SCHERER #8, 9.1 ACRE-FEET IN MANICKE #1, 9.1 ACRE-FEET IN MANICKE #2, 9.1 ACRE-FEET IN MANICKE #3, 2.7 ACRE-FEET IN MANICKE #4, 5.6 ACRE-FEET IN RICHERT #1, 9.1 ACRE-FEET IN RICHERT #2, 9.1 ACRE-FEET IN RICHERT #3, 5.6 ACRE-FEET IN RICHERT #4, AND 5.6 ACRE-FEET IN RICHERT #5

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH MAY 31.

DATE OF PRIORITY: SEPTEMBER 6, 1988, FOR 100 ACRE-FEET AND JUNE 1, 1994, FOR 514 ACRE-FEET

INSTANTANEOUS DIVERSION RATE: THE MAXIMUM DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED

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UNDER ANY PERMIT FOR APPLICATION S-69654, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW:

1 Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range
2 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

3 Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the live flow diversion authorized under any permit for application S-69654, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application S-69654, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application S-69654, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for S-69654 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

The area submerged by the Windhurst Reservoir, when full, will be 23.0 acres and the maximum depth of water will be 24.0 feet. The maximum height of the dam shall not exceed 28.0 feet.

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The area submerged by the Haga Reservoir #1, when full, will be 2.6 acres and the maximum depth of water will be 9.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #2, when full, will be 0.8 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #3, when full, will be 0.5 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #4, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Bee Sting Reservoir, when full, will be 2.0 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Scherer Reservoir #1, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #2, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #3, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #4, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #5, when full, will be 0.5 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #6, when full, will be 0.7 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

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The area submerged by the Scherer Reservoir #7, when full, will be 1.0 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #8, when full, will be 0.5 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Manicke Reservoir #1, when full, will be 1.1 acres and the maximum depth of water will be 11.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #4, when full, will be 0.3 acre and the maximum depth of water will be 10.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Richert Reservoir #1, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #3, when full, will be 0.7 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #4, when full, will be 0.7 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #5, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

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THE AREAS TO BE SUBMERGED BY THE RESERVOIR ARE LOCATED AS FOLLOWS:

NE 1/4 NE 1/4	MANICKE #1
SECTION 32	
NW 1/4 NW 1/4	MANICKE #2
SW 1/4 NW 1/4	MANICKE #2,3
SE 1/4 NW 1/4	MANICKE #4
SECTION 33	
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.	
NW 1/4 SW 1/4	HAGA #1
SECTION 3	
SW 1/4 NW 1/4	SCHERER #5
NE 1/4 SW 1/4	BEE STING
NW 1/4 SW 1/4	SCHERER #7,8
SW 1/4 SW 1/4	HAGA #4
SE 1/4 SW 1/4	HAGA #2,3, BEE STING
NE 1/4 SE 1/4	WINDHURST, HAGA #4
NW 1/4 SE 1/4	WINDHURST
SECTION 4	
NE 1/4 NE 1/4	SCHERER #3
SW 1/4 NE 1/4	SCHERER #1
SE 1/4 NE 1/4	SCHERER #2,3,4
NE 1/4 SE 1/4	SCHERER #6
SECTION 5	
NE 1/4 NE 1/4	RICHERT #2
NW 1/4 NE 1/4	RICHERT #1,3
SW 1/4 NE 1/4	RICHERT #5,4
SECTION 9	
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.	

Measurement, recording and reporting conditions:

A. 4 Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

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

5 Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

6 At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

7 The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

No fill shall be placed until preparation of the foundation has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

Any significant change in the approved design prior to or during construction shall be documented by the engineer of record in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

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

8 The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

9 Routine maintenance of the dam and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

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The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

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.

STANDARD CONDITIONS

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2005.

Issued October 10, 2000

Dwight Stroud for
Paul R. Cleary, Director
Water Resources Department

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ATTACHMENT A

CHART - C

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST
1960	CONSTRUCT MAICKE RES. #4	$5,000.00
1968	CONSTRUCT HAGA RES. #4	$2,500.00
1969	CONSTRUCT RICHERT RES. #4	$8,000.00
1971	CONSTRUCT SCHERER RES. #5 & #1	$9,000.00
1972	CONSTRUCT RICHERT RES. #2	$8,000.00
1975	CONSTRUCT SCHERER RES. #8, ENLARGE EXISTING RESERVOIR	$7,000.00
1980	CONSTRUCT MANICKE RES. #1 & #2	$15,000.00
1983	CONSTRUCT SCHERER RES. #6	$8,500.00
1988	CONSTRUCT MANICKE RES. #3	$10,000.00
1989	CONSTRUCT HAGA RES. #2	$4,500.00
1990	CONSTRUCT SCHERER RES. #4 & RE-SAND BOGS	$9,000.00
1993	CONSTRUCT HAGA RES. #3	$6,000.00
1993	CONSTRUCT RICHERT RES. #3	$15,000.00
1996	PARTIAL CONSTRUCTION OF BEE STING RES. (HAGA)	$1,500.00
2000	CONSTRUCT SCHERER RES. #3	$5,500.00
1998-2000	CONSTRUCT WINDHURST RES., INSTALL PIPING, WEIR, STAFF GAGES, METER	$1,600,000.00

DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED AND PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER	COST
10/10/2000	**THE PERMIT WAS SIGNED**	
10/10/2001	**THE PERMIT SPECIFIED "ACTUAL CONSTRUCTION WORK" SHALL BEGIN ("A-DATE")**	
2001	INSTALL PUMP, ELECTRICAL & VALVES FOR WINDHURST RES.	$12,050.00
2001	PARTIAL EXCAVATION OF HAGA RES.#1	$4,000.00
10/01/2005	**DATE THE PERMIT SPECIFIED COMPLETE APPLICATION OF WATER TO THE USE SHALL BE MADE ("C-DATE")**	
	TOTAL COST FOR CHART - C	$1,730,550.00

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CHART - A

CONDITION NUMBER	DATE SATISFIED	DESCRIBE HOW PERMIT CONDITION HAS BEEN SATISFIED
1	2000	STAFF GAGE INSTALLED ON BEAR CR. ON BRIDGE DOWNSTREAM FROM CONFLUENCE OF BILLS CR.
2	2009	MEASUREMENTS
3	2001	WEIR 7 STAFF GAGE INSTALLED AT POD FROM BILLS CR.
4	2001	TOTALIZING FLOW METER INSTALLED AT POD FROM BILLS CREEK, REPORTS SUBMITTED BEGINNING FEB. 2002
5	2002	STAFF GAGES INSTALLED IN MOST PONDS, INCLUDING WINDHURST RESERVOIR
6	2002	APPROVED FISH SCREEN INSTALLED AT POD FROM BILLS CREEK
7	2002	EARTHEN DAM COMPLETED WITH ENGINEERING CERTIFICATION. NEW CERTIFICATION
8	2001	OUTLET CYCLED YEARLY AND IS FULLY OPERATIONAL
9		ON GOING MAINTENANCE TO REMOVE TREES, BRUSH, AND DEBRIS AND REPAIR OF ANY SLUMPS, AREAS OF EROSION, OR DEFECTIVE EQUIPMENT

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ATTACHMENT B

CHART - C

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST
1960	CONSTRUCT MAICKE RES. #4	$5,000.00
1968	CONSTRUCT HAGA RES. #4	$2,500.00
1969	CONSTRUCT RICHERT RES. #4	$8,000.00
1971	CONSTRUCT SCHERER RES. #5 & #1	$9,000.00
1972	CONSTRUCT RICHERT RES. #2	$8,000.00
1975	CONSTRUCT SCHERER RES. #8, ENLARGE EXISTING RESERVOIR	$7,000.00
1980	CONSTRUCT MANICKE RES. #1 & #2	$15,000.00
1983	CONSTRUCT SCHERER RES. #6	$8,500.00
1988	CONSTRUCT MANICKE RES. #3	$10,000.00
1989	CONSTRUCT HAGA RES. #2	$4,500.00
1990	CONSTRUCT SCHERER RES. #4 & RE-SAND BOGS	$9,000.00
1993	CONSTRUCT HAGA RES. #3	$6,000.00
1993	CONSTRUCT RICHERT RES. #3	$15,000.00
1996	PARTIAL CONSTRUCTION OF BEE STING RES. (HAGA)	$1,500.00
2000	CONSTRUCT SCHERER RES. #3	$5,500.00
1998-2000	CONSTRUCT WINDHURST RES., INSTALL PIPING, WEIR, STAFF GAGES, METER	$1,600,000.00

DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED AND PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER	COST
10/10/2000	**THE PERMIT WAS SIGNED**	
10/10/2001	**THE PERMIT SPECIFIED "ACTUAL CONSTRUCTION WORK" SHALL BEGIN ("A-DATE")**	
2001	INSTALL PUMP, ELECTRICAL & VALVES FOR WINDHURST RES.	$12,050.00
2001	PARTIAL EXCAVATION OF HAGA RES.#1	$4,000.00
10/01/2005	**DATE THE PERMIT SPECIFIED COMPLETE APPLICATION OF WATER TO THE USE SHALL BE MADE ("C-DATE")**	
	TOTAL COST FOR CHART - C	$1,730,550.00

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Oregon
John A. Kitzhaber, MD, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

September 29, 2014

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #: R-69708 (Permit R-12928).** Your application will be reviewed in the future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

If you are interested in having your application reviewed sooner, you may pay to have your file processed immediately, using the Reimbursement Authority program, which is described at: http://www.wrd.state.or.us/OWRD/mgmt_reimbursement_authority.shtml

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Machelle Bamberger at (503) 986-0802. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's website at: www.wrd.state.or.us.

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

Draft sent by email reviewed 9-16-14 SWP

Application for Extension of Time for a Water Right Permit

(Non-Municipal / Non-Quasi-municipal Water Use)

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

I, Windhurst Road Watering Corporation
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

the holder of: Application Number R-69708 Permit Number R-12928 *[OAR 690-315-0020(3)(b)]*

A separate application must be submitted for each permit as per OAR 690-315-0020(2).

P.O. BOX 503
MAILING ADDRESS

97411
CITY, STATE, ZIP

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(541) 347-3062
PHONE

E-MAIL ADDRESS

X **do hereby request that** the time to apply water to full beneficial use under the terms and conditions of the permit, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019.

Please Note. If the permit **does** specify a date when **construction** must be **completed**, you should request to extend both the time to apply water to full beneficial use **and** to complete construction. These dates are typically found on the permit above the signature of the Director.

and

☒ **do hereby request that** the time to complete construction of the water system, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019

Sign after completing the entire application, questions 1-11.

I am the permit holder, or have attached to this application written authorization from the permit holder, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension. I have completed the entire application.

Signature **Date**

Printed Name/Title

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Questions to Complete this Application for Extension of Time

Please see the instruction sheet to help you answers these questions.

[OAR 690-315-0020(3)(d)]

1. **Did the "actual construction" of the water system/well drilling begin within the time specified in the permit?** ☒ **Yes** ☐ **No** ☐ **N/A,** if not specified in this permit

Date "actual construction" began is: 1960

Describe details of construction: Manicke reservoir #4 constructed

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[OAR 690-315-0020(3)(e)]

3-A. Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the original permitted time period.

CHART-C (below) must be completed for all Application for Extension of Time requests. *Use chronological order.*

CHART-C

DATE	LIST & DESCRIBE WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST*
	SEE ATTACHMENT B	
DATE	**LIST & DESCRIBE WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE FOR COMPLETE APPLICATION OF WATER**	**COST***
	Date the permit was signed - find date above signature on last page of permit.	
	Date the permit specified "Actual Construction Work" shall begin ("A-Date") -not all permits contain this date.	
	Date the permit specified complete application of water to the use shall be made ("C-Date") - all permits contain this date.	
DATE	**LIST & DESCRIBE WORK ACCOMPLISHED AFTER DATE FOR COMPLETE APPLICATION OF WATER UP TO NOW** Complete if this is your first request for extension of time.	**COST***
	***Total Cost for Chart-C**	

*** If exact cost is not known, please provide your best estimate.**

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(The total combined cost from CHART-C and CHART-D)

[OAR 690-315-0020(3)(e)(B)]

5. Provide evidence of the maximum rate (or duty, if applicable) of water actually diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.

TIP: Report the rate used to date in the same units of measurement as specified in the permit. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

5-A) For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

Maximum measured rate used to date = _____ cfs (cubic feet per second)
or
Maximum measured rate used to date = _____ gpm (gallons per minute)
or
Acre-feet stored to date = 614 AF

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5-B) For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit including wells not currently being used.

CHART-E

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED: Well Log Number e.g. MORR 50473	IF DRILLED: Well Tag Number e.g. # 27566 or N/A	IF DRILLED: Is the actual drilled location authorized on this permit or on a permit amendment? (See 5-C below)	IF DRILLED: Maximum **measured** rate used from this well - - under this permit only (CFS or GPM)	IF DRILLED: Is this well authorized or utilized under any OTHER water rights?	IF DRILLED: If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total **measured rate** from all wells utilized under this permit								

5-C) If the drilled location of a well is not authorized on this permit, please specify its location below, or provide a map showing its location. Has or will a Permit Amendment Application been/be filed? Yes ☐ No ☐

If a Permit Amendment Application has been filed: Transfer No. T-_____

Well #_____: Actual location: _____

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[OAR 690-315-0020(3)(e)(C)]

6. **Provide the total number of acres actually irrigated to date under this permit (if any).**

Surface Water Permits: I have applied water to _____ acres for irrigation to date.

Ground Water Permits: I have applied water to _____ acres for irrigation to date.

Please specify which wells are being utilized for this irrigation.

Well #_____ Acres_____ Well #_____ Acres_____

Well #_____ Acres_____ Well #_____ Acres_____

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[OAR 690-315-0020(3)(j)]

7. **Provide a summary of future plans and a schedule to complete construction of the water system, and/or apply water to full beneficial use under the permit terms and conditions.**

CHART-F

APPROXIMATE DATE RANGE (projected)	LIST & DESCRIBE WORK TO BE ACCOMPLISHED TO COMPLETE WATER DEVELOPMENT (projected)	ESTIMATED COST (projected)
2014-2019	MANICKE - EXTENSION TO 50% OF PONDS TO FINISH	$10,000.00
2014-2019	SCHERER - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, ENLARGE RES. #1 & #2	$10,000.00
2014-2019	HAGA - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, COMPLETE BEE STING RES.	$10,000.00
2014-2019	RICHERT - FINISH CONSTRUCTION OF RES. #1 & #2, INSTALL PUMPS AND PLUMBING	$18,000.00
Year: 2019	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
8. Estimated remaining total cost to complete the water development: [OAR 690-315-0020(3)(g)]		**$48,000.00**

[OAR 690-315-0020(3)(h)]

9. **Describe the reasons why the water development was not constructed, and/or water was not beneficially used within permit time limits.** ***Provide supporting information for the reason(s) that best fits your circumstances (A, B, C or D).***

9-A) Is the project of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit? If yes, describe.

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CWRE WILL BE MONITORING PROGRESS AND REQUESTING THAT THE PROJECT BE FINISHED WITHIN THE AMOUNT OF TIME REQUESTED.

11. **Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.**

WE ARE UNABLE TO SEPARATE COSTS FROM THIS PERMIT AN PERMIT S-53703. PLEASE CONSIDER BOTH PERMITS TOGETHER. CWRE WILL BE MONITORING PROGRESS TO ENSURE COMPLETION OF PROJECT IN A TIMELY MANNER.

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Thank you for submitting a complete and accurate application. Remember to sign the front page. If you have questions or need assistance, please ask to speak with the Department's Extension Specialist by calling 503-986-0900 during business hours.

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ATTACHMENT A

CHART - A

CONDITION NUMBER	DATE SATISFIED	DESCRIBE HOW PERMIT CONDITION HAS BEEN SATISFIED
1	2000	STAFF GAGE INSTALLED ON BEAR CR. ON BRIDGE DOWNSTREAM FROM CONFLUENCE OF BILLS CR.
2	2009	MEASUREMENTS
3	2001	WEIR 7 STAFF GAGE INSTALLED AT POD FROM BILLS CR.
4	2001	TOTALIZING FLOW METER INSTALLED AT POD FROM BILLS CREEK, REPORTS SUBMITTED BEGINNING FEB. 2002
5	2002	STAFF GAGES INSTALLED IN MOST PONDS, INCLUDING WINDHURST RESERVOIR
6	2002	APPROVED FISH SCREEN INSTALLED AT POD FROM BILLS CREEK
7	2002	EARTHEN DAM COMPLETED WITH ENGINEERING CERTIFICATION. NEW CERTIFICATION
8	2001	OUTLET CYCLED YEARLY AND IS FULLY OPERATIONAL
9		ON GOING MAINTENANCE TO REMOVE TREES, BRUSH, AND DEBRIS AND REPAIR OF ANY SLUMPS, AREAS OF EROSION, OR DEFECTIVE EQUIPMENT

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Oregon Water Resources Department
Water Right Services Division

PROPOSED FINAL ORDER

In the Matter of the Application for an Extension of Time for Permit R-12928, Water Right Application R-69708, in the name of Windhurst Road Water Corporation.

Permit Information

Application:	R-69708
Permit:	R-12928
Basin:	17 – South Coast / Watermaster District 19
Date of Priority:	September 6, 1988, for 100 acre-feet and June 1, 1994, for 514 acre-feet (AF)
Source of Water:	Bill Creek, a tributary of Bear Creek
Purpose of Use:	Stored water to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614.0 acre-feet (AF) each year, November 1 through May 31

****Please read this Proposed Final Order in its entirety* as it may contain additional conditions not included in the original permit****

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In summary, the Department proposes to:

- Grant an extension of time to apply water to full beneficial use from October 1, 2005 2014 to October 30, 2019.[1]

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

[1] Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use.

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ACRONYM QUICK REFERENCE
Department – Oregon Water Resources Department
PFO – Proposed Final Order
cfs – cubic feet per second
gpm – gallons per minute
AF – acre-feet

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AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(3) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

FINDINGS OF FACT

Background

1. Permit R-12928 was granted by the Department on October 10, 2000. The permit authorizes the storage of up to 614.0 AF of water, a cumulative maximum divided between 23 reservoirs diverted from Bill Creek, a tributary of Bear Creek, to be appropriated under Permit S-53703 for cranberry operations. The permit specified actual construction was to begin by October 10, 2001 and complete application of water was to be made on or before October 1, 2005.

2. A prior permit extension has been granted for Permit R-12928. The most recent extension resulted in the completion date for full application of water being extended to October 1, 2014.

3. The permit holder submitted an "Application for Extension of Time" to the Department

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on September 26, 2014, requesting both the time to complete construction of the water system and the time to apply water to full beneficial use under the terms of Permit R-12928 be extended from October 1, 2014 to October 30, 2019. However, since the permit does not contain a specific deadline for completing construction, the Department needs to only consider an extension of the time to apply water to full beneficial use.

4. Notification of the Application for Extension of Time for Permit R-12928 was published in the Department's Public Notice dated October 7, 2014. No public comments were received regarding the extension application.

Review Criteria *[OAR 690-315-0040]*

The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0040. This determination shall consider the applicable requirements of ORS 537.230[2], 537.248[3] and/or 539.010(5)[4].

Complete Extension of Time Application *[OAR 690-315-0040(1)(a)]*

5. On September 26, 2014, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction *[OAR 690-315-0040(1)(b) and 690-315-0040(5)]*

6. Actual construction of the water system began prior to the October 10, 2001 deadline specified in the permit. In 1960 the Manicke reservoir #4 was constructed.

Duration of Extension *[OAR 690-315-0040(1)(c)]*

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

7. As of September 26, 2014, the remaining work to be completed consists of installing staff gages in Scherer and Haga, enlarge Scherer #1 and #2, completing Bee Sting reservoir, completing Richert #1 and #2, installing pumps and plumbing to Richert #1 and #2, completing Manicke and applying water to full beneficial use.

8. Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 30, 2019, to accomplish the application of water to beneficial use under the terms and conditions of Permit R-12928 is both reasonable and necessary.

Good Cause *[OAR 690-315-0040(1)(d)]*

The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0040(2).

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[2]ORS 537.230 applies to surface water permits only.
[3]ORS 537.248 applies to reservoir permits only.
[4]ORS 539.010(5) applies to surface water and ground water permits.

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Reasonable Diligence of the Appropriator *[OAR 690-315-0040(2)(a)]*

The Department's determination of reasonable diligence shall consider the requirements set forth under OAR 690-315-0040(3)(a-d). In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:

Amount of Construction *[OAR 690-315-0040(3)(a)]*

9. Work was accomplished within the time allowed in the permit or previous extension as follows:

   a. Construction of the water system began prior to the October 10, 2001 deadline specified in the permit. In 1960 Manicke reservoir was constructed.

   b. Work was completed during the original development time frame under Permit R-12928. In 2001 the permit holder installed a pump, electrical and valves for Windhurst reservoir and partial excavation of Haga reservoir #1

   d. During the most recent extension period, being from October 1, 2005, to October 1, 2014, the following was accomplished:

      - Manicke completed 50% of extension to all ponds;
      - Scherer completed reservoir #7 and purchased staff gages;
      - Haga purchased staff gages;
      - Richert worked on construction of reservoir #1 and #2, purchased pumps and plumbing;
      - Final engineering certification was completed.

Beneficial Use of Water *[OAR 690-315-0040(3)(b)]*

10. The following beneficial use was made of the water during the permit or previous extension time limits:

   a. Since the issuance of Permit R-12928 on October 10, 2000, the permit holder has stored a total of 614 AF of water in 23 reservoirs that was appropriated under permit S-53703 for cranberry operation.

Compliance with Conditions *[OAR 690-315-0040(3)(c)]*

11. The water right permit holder's conformance with the permit or previous extension conditions.

   a. The Department has considered the permit holder's compliance with conditions, and has identified the following concerns: (1) annual reports of the amount of water used each month have not been received by the Department, (2) not all staff gages are installed.

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b. In order to legally perfect the storage of water under this permit, the permit holder must demonstrate that all conditions of the permit have been satisfied.

Financial Investments to appropriate and Apply Water to a Beneficial Purpose *[OAR 690-315-0040(2)(b),(3)(d),(4)(d)]*

12. As of September 26, 2014, the permit holder has invested approximately $890,025, which is about 97 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional $24,000 investment is needed for the completion of this project.

Good Faith of the Appropriator *[OAR 690-315-0040(2)(c)]*

13. The Department has found good faith of the appropriator under Permit R-12928.

The Market and Present Demands for Water *[OAR 690-315-0040(2)(d-e)]*

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

14. The amount of water available to satisfy other affected water rights and scenic waterway flows; special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d); or the habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife *[OAR 690-315-0040(4)(a-c)]*.

    a. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit R-12928; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an application for a new water right is submitted. The points of diversion are located on Bill Creek, a tributary of Bear Creek, and are not located within a Withdrawn Area. Bill Creek, a tributary of Bear Creek is not located within or above a state or federal scenic waterway, however, it is located within an area ranked "highest" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife. The points of diversion are not in a location listed by the Department of Environmental Quality as a water quality limited stream.

15. Other economic interests dependent on completion of the project [OAR 690-315-0040(4)(e)].

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a. None have been identified.

16. Other factors relevant to the determination of the market and present demand for water and power *[OAR 690-315-0040(4)(f)]*.

a. None have been identified.

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Fair Return Upon Investment *[OAR 690-315-0040(2)(f)]*

17. Use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements *[OAR 690-315-0040(2)(g)]*

18. Delay in the development of this project was not caused by any other governmental requirements.

Unforeseen Events *[OAR 690-315-0040(2)(h)]*

19. Unforeseen events extended the length of time needed to fully develop and perfect Permit R-12928, in that one of the main partners of Windhurst Road Watering Corporation passed away in 2014.

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230(3).

2. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).

3. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

4. Full application of water to beneficial use can be accomplished by October 30, 2019[5], as required by OAR 690-315-0040(1)(c).

5. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant

[5]Pursuant to ORS 537.230(3), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and a new or revised claim of beneficial use as deemed appropriate by the Department.

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and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Extend the time to apply water to beneficial use under Permit R-12928 from October 1, 2014 to October 30, 2019.

DATED: November 18, 2014

Dwight W. French, Administrator
Water Right Services Division

If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.

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Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **January 2, 2015,** being 45 days from the date of publication of the proposed final order in the Department's weekly notice.

2. A written protest shall include:

   a. The name, address and telephone number of the petitioner;
   b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;

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c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
e. Any citation of legal authority supporting the petitioner, if known;
f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
g. The applicant or non-applicant protest fee required under ORS 536.050.

3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:

a. Issue a final order on the extension request; or
b. Schedule a contested case hearing if a protest has been submitted, and:
   1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
   2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

- If you have any questions about statements contained in this document, please contact Machelle Bamberger at (503) 986-0802.
- If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0820.
- If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
- Address any correspondence to : Water Right Services Division
  725 Summer St NE, Suite A
  Fax: 503-986-0901 Salem, OR 97301-1266

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State of Oregon
Water Resources Department

In the matter of Water Right Application S-69654 Windhurst Road Water Corporation	)))	**Agreement and Stipulated Final Order**

Application History

On June 30, 1988, Windhurst Road Water Corporation submitted an application to the Department for a water use permit. The proposed use requested 34.79 cubic feet per second (cfs) from stored water and live flow for cranberry operations. The proposed source of water was an on-channel reservoir and live flow from Bill Creek, tributary to Bear Creek and within the Coquille River Basin.

In April 1989, pursuant to OAR 690-11-080(2)(a)(C), the request was presented to the Water Resources Commission for a determination of whether a public interest hearing was necessary (Agenda Item G, WRC Meeting April 17, 1989). The Commission voted to hold a public interest hearing due to fisheries concerns raised by the Oregon Department of Fish and Wildlife (ODFW). On August 10, 1989, a contested case hearing was set for October 11, 1989, by Administrative Law Judge (ALJ) Weisha Mize. Parties named to the proceeding are the applicant, ODFW, and the Department. On the unopposed motions of the applicant the hearing has been continued several times to allow for settlement negotiations and application modifications.

On June 1, 1994, the application was amended to request the use of 614 acre-feet of stored water from 23 off-channel reservoirs and 10 cfs of live flow from Bill Creek.

The Department processed the amended application under Senate Bill 674 (1995 Legislative Session) and on August 6, 1996, conditionally approved the use. The Department's Proposed Order does not change contested case party status. On September 18, 1996, the applicant protested the Department's Proposed Final Order and requested that the application be placed on administrative hold while settlement discussions continued.

The applicant, Oregon Department of Fish and Wildlife, and the Department agree that the issue(s) in this case may be settled on the following terms and conditions, and hereby stipulate to the following:

1) Parties waive the right to file exceptions to this order and the right to judicial review under ORS 536.075(2) and 183.482.

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2) Entry of this stipulated final order by the Administrative Law Judge.

3) Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon a permit being issued for the reservoirs proposed under application R-69708 (source of 614 acre-feet). Permit issuance is also contingent upon the applicant submitting a revised map, meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use. Minor modification to place of use and type of use, as described on the attached draft permit, may occur as a result of the map revision. Finally, permit issuance shall be contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.

4) The permit shall contain the following new or modified conditions as well as the conditions contained on the attached draft permit.

A) Season of Use: November 1 through May 31

B) Source: Bill Creek and 614 acre-feet stored water in 23 off-channel reservoirs

C) Instantaneous Diversion Rate: the maximum diversion rate from Bill Creek authorized under this permit, combined with the diversion authorized under application R-69708 shall not exceed 2.75 cfs and is further limited as described below.

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish

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passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708 shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application R-69708, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application R-69708, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for R-69708 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

D) Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion on Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

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

E) Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

F) At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

G) As conditioned, the proposed use will not impair or be detrimental to the public interest.

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Findings of Fact and Conclusions of Law

Pursuant to OAR 690-410-070 and OAR 690-400-010(11) water is available for the proposed use November 1 through May 31 of each year. Under the South Coast Basin Program OAR 690-517-001, the use is allowable as requested. The proposed use will not injure other water rights and complies with rules of the Water Resources Commission. Finally, as conditioned above and on the attached draft permit the proposed use will not impair or be detrimental to the public interest.

Therefore, the applicant, the Oregon Department of Fish and Wildlife, and the Department agree that the proposed use may be allowed as conditioned above and on the attached draft permit without detriment or impairment to the public interest.

The applicant, the Oregon Department of Fish and Wildlife, and the Department agree on all other aspects of the attached draft permit and therefore agree to the entry of this Stipulated Final Order. Therefore, the Department finds and the applicant and the Oregon Department of Fish and Wildlife agree that, if exercised in accordance with the attached draft permit, the proposed use will not impair or be detrimental to the public interest.

_____ _____

On Behalf of Applicant Date

_____ _____

On Behalf of the Oregon Department of Fish and Wildlife Date

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_____ _____

On Behalf of the Oregon Department of Water Resources Date

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Stipulated Final Order

Pursuant to the Agreement described above, Application S-69654 therefore is approved with the above modifications to the Proposed Final Order. Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon a permit being issued for the reservoirs proposed under application R-69708 (source of 614 acre-feet). Permit issuance is also contingent upon the applicant submitting a revised map, meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use. Minor modification to place of use and type of use, as described on the attached draft permit, may occur as a result of the map revision. Finally, permit issuance shall be contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.

DATED , 1998

_____
Weisha Mize
Administrative Law Judge

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normthewaterguy@charter.net

From: FRENCH Dwight W * WRD <Dwight.W.French@oregon.gov>
Sent: Monday, October 18, 2021 12:05 PM
To: Norm Daft
Cc: KCJ; CLARK Gerald E * WRD
Subject: RE: Reservoirs - COBU - differences in development and permit

As to COBU: Statute hasn't changed – COBU still required no later than one year after C date for all permits (unless extended by extension).

As for reservoirs being in a different location: No clear cut answer – we'll review on a case by case basis. If it was supposed to be excavated off channel and is still off channel there's some leeway from OWRD. A neighbor could raise a stink and that could be a problem/risk for the permit holder.

If it was supposed to be on channel – that's a tougher one because the agencies carefully consider impacts to fish. Definitely no source switching. Looking for injury. 10' up or downstream is generally not going to make a difference but a ¼ mile in many cases would not work.

These are my thoughts.
Hope you guys are well – staying busy and healthy!
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

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From: Norm Daft <normthewaterguy@charter.net>
Sent: Monday, October 18, 2021 11:21 AM
To: FRENCH Dwight W * WRD <Dwight.W.French@oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>
Subject: RE: Reservoirs - COBU - differences in development and permit

Dwight,

Original E-mail sent 8/12/21

My main question was, how can the Department require a COBU for a reservoir when the Attorney General determined storage of water is not a beneficial use. Also, due to that opinion, likely cannot do a permit amendment for a reservoir or a multiple reservoir permit. R-12298 Windhurst is what we are dealing with. This permit priority is 1988 & 1994 – Windhurst – main reservoir is as proposed. This is a very complex permit with multiple proposed reservoirs and many

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unknowns when submitted. The main applicants of the permit have since died and there are new owners continuing development as ground conditions dictate.

There were some other questions as well concerning completed sizes and location of reservoirs – see below a copy of the text of the E-mail I sent in August.

Clay and I have a client that may construct excavated reservoirs in slightly different locations than listed in the storage permit.

I suspect there is some leeway in actual location vs. the permit. We considered a permit amendment, however, that statutory language refers to "uses of water" as does the transfer language.

The question becomes how much leeway is acceptable concerning actual location and permit location as well as sizes varying but not exceeding the permitted total storage. The permit is for multiple reservoirs, so the combined storage for several may end up being in a single reservoir and some may be smaller and some bigger.

Upon further thinking (dangerous) and after review of the Attorney General opinion concerning storage of water, it seems the Department cannot require "Claims of Beneficial Use" for storage of water permits.

It has been determined that storage of water, therefore the reservoir(s) is not a use of water. If it is not a use of water, how can the Department require a Claim of Beneficial Use? It seems the Department would be incongruent with the AG opinion in requiring a COBU for a reservoir.

What are your thoughts?

From: FRENCH Dwight W * WRD <Dwight.W.French@oregon.gov>
Sent: Monday, October 18, 2021 10:44 AM
To: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Reservoirs - COBU

I don't remember your question.
Nothing has changed in terms of requiring a COBU no later than 1 year after the C date on all permits. For some alt res permits the permit holder can do an abbreviated claim without a CWRE.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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3 of 3

From: Norm Daft <normthewaterguy@charter.net>
Sent: Monday, October 18, 2021 9:40 AM
To: FRENCH Dwight W * WRD <Dwight.W.French@oregon.gov>
Subject: Reservoirs - COBU

Hi Dwight,

I don't think I ever received a response on my E-mail concerning COBU's for reservoirs since storing water has been determined to not be a beneficial use.

Can you tell me how the Department is dealing with this issue?

Thanks.

Norm

Norm Daft
(541) 761-1057

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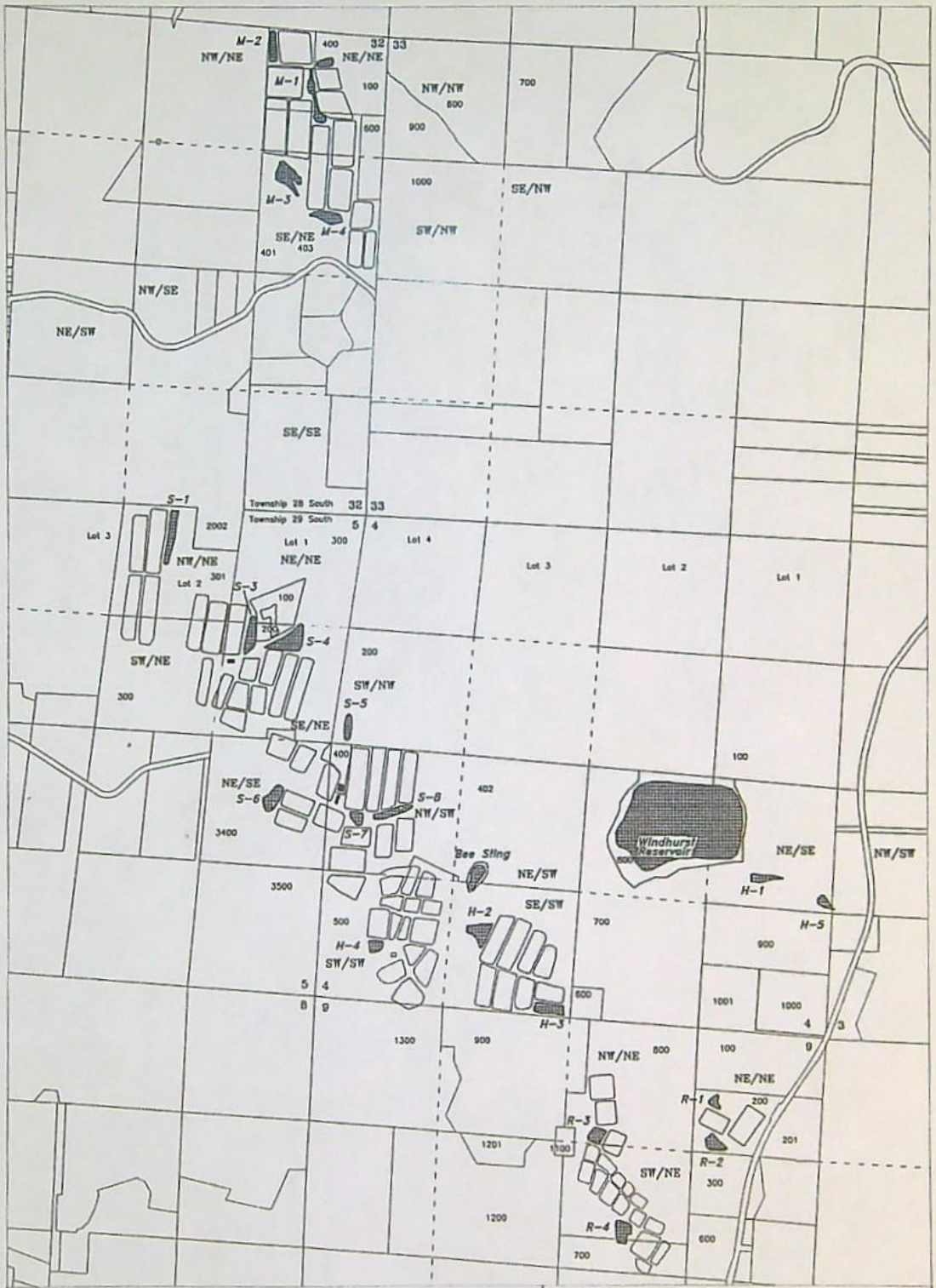
SEP 05 2024
Salem, OR

Exhibit 17 1 of 1

WINDHURST SUBDISTRICT
C/O BANDON CRANBERRY WATER CONTROL DISTRICT
TOWNSHIP 28S & 29S RANGE 14W W.M.
COOS COUNTY OREGON

Map to accompany Extension Application
APPLICATION R-69708 PERMIT R-12928



Current Reservoirs -22
(Permitted Reservoirs -23)

WINDHURST SUBDISTRICT

John Roby 01-20-24 C.J.
Signature Date

John Roby Chairman
Printed Name Title

This map is not intended to provide legal dimensions or locations of property ownership lines

NORTH

Scale
1" = 1320'

Prepared By

JORDAN ENGINEERING
460 JORDAN LANE
ROSEBURG, OREGON 97471
(541) 673-1931

12/15/2023 - n.e.d.

01-10-24
01-20-24

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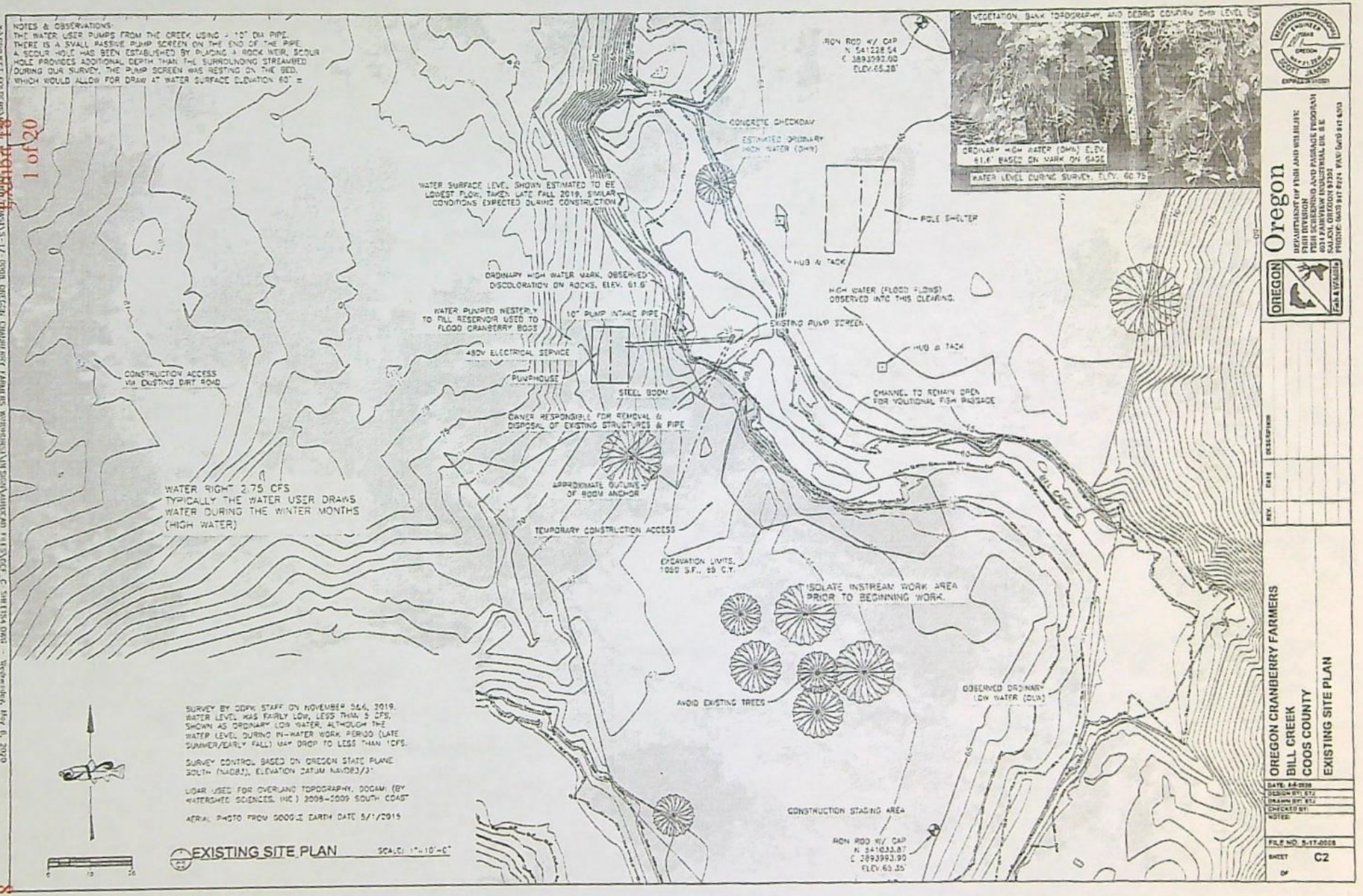

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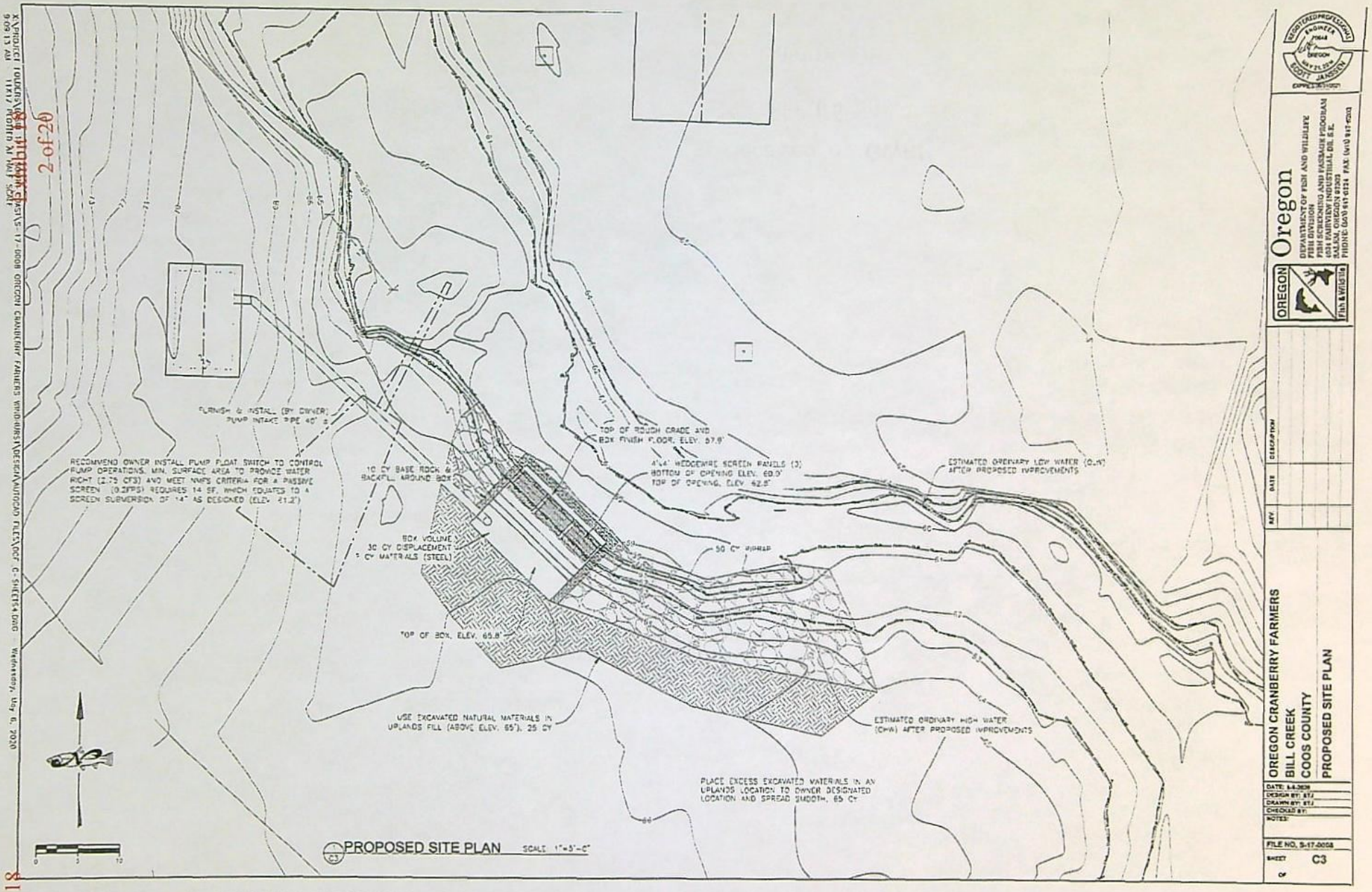

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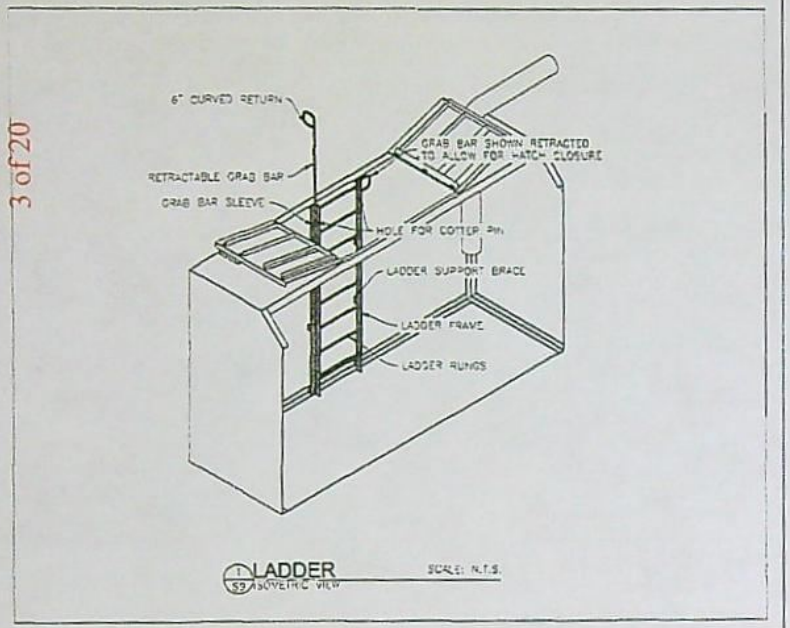
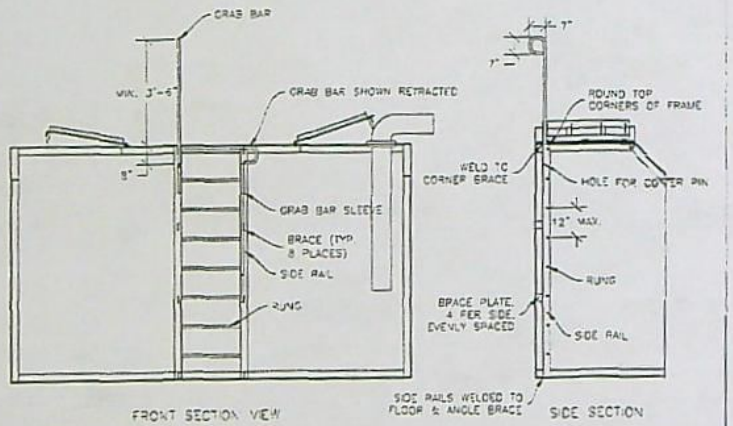
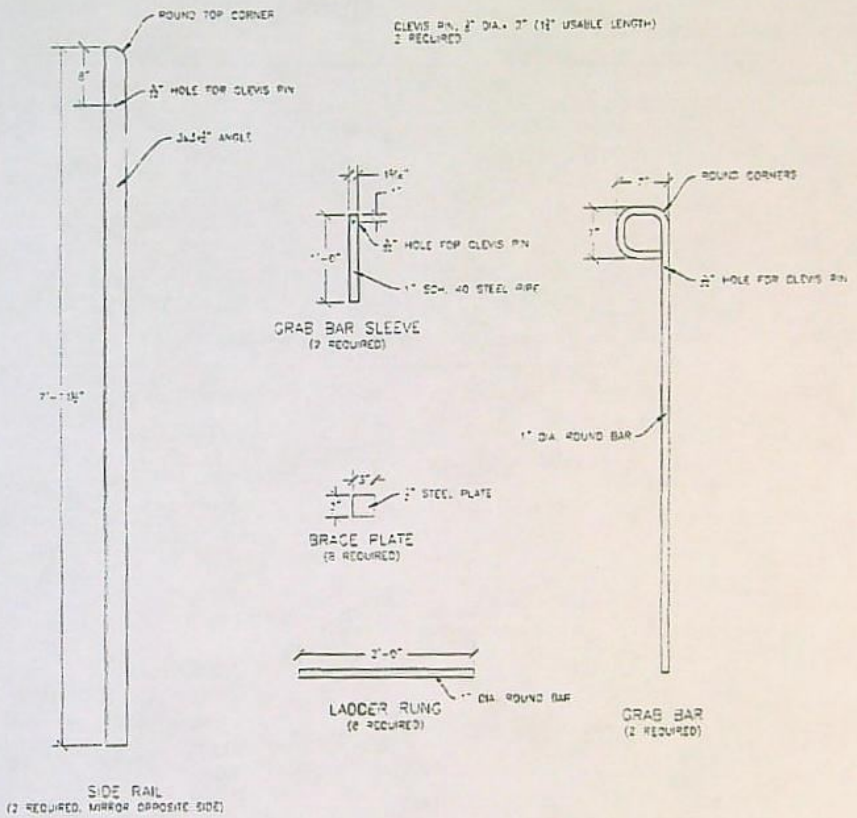
3 of 20



1 S9 LADDER ISOMETRIC VIEW SCALE: N.T.S.



2 S9 LADDER ASSEMBLY SCALE: ½"=1"



3 S9 LADDER COMPONENTS SCALE: 1½"=1'-0"

REGISTERED PROFESSIONAL ENGINEER
OREGON
JULY 21, 2006
SCOTT JANSSEN
EXPIRES: 12/31/21

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6201 FAX: (503) 947-6202

NO.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
LADDER

DATE: 5-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S9
OF

X:\PROJECT FOLDERS\S-17-0008 OREGON CRANBERRY FARMERS WATERRIGHT\SACRAMENTO\FISH BOX MOD\CADD\S-17-0008 GRCFGN CRANBERRY FARMERS WATERRIGHT FISH BOX MOD.DWG Wednesday, May 6, 2020 9:21:58 AM
11X17 PLOTTED AT 1:1 SCALE
Exhibit 18
3 of 20

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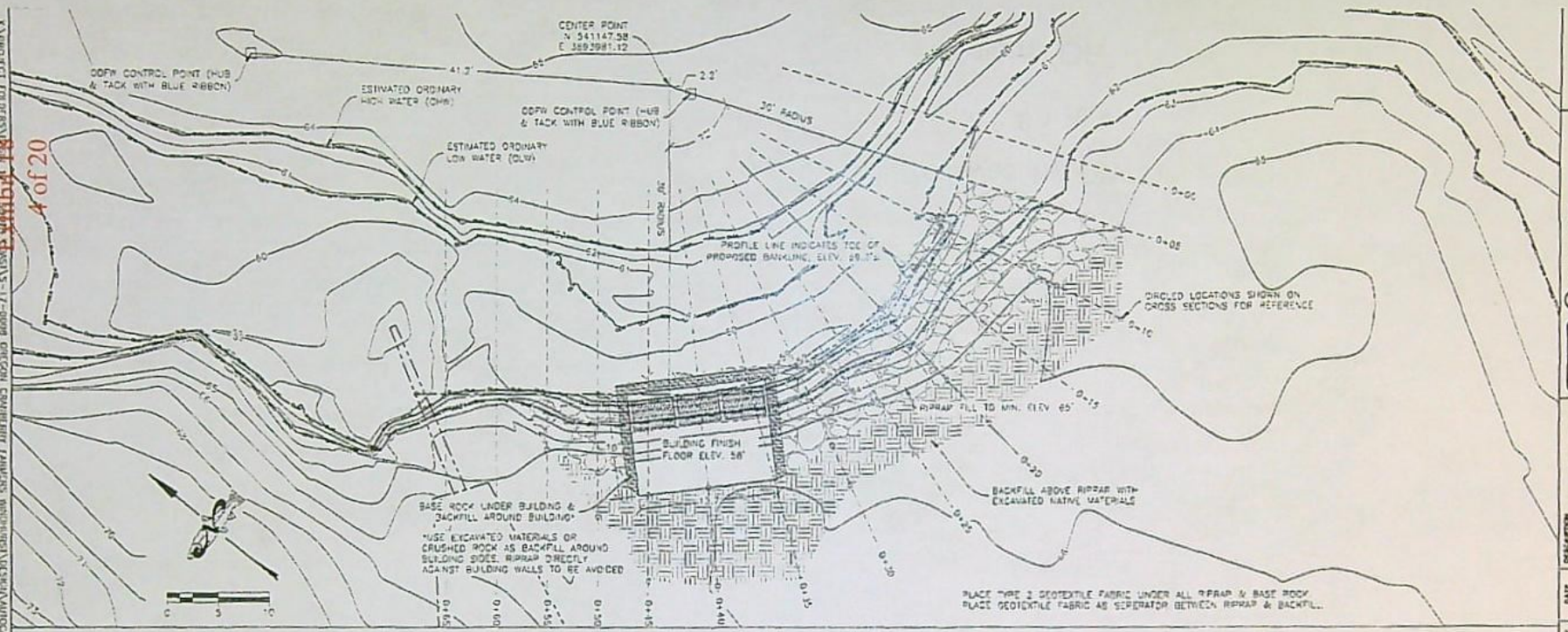
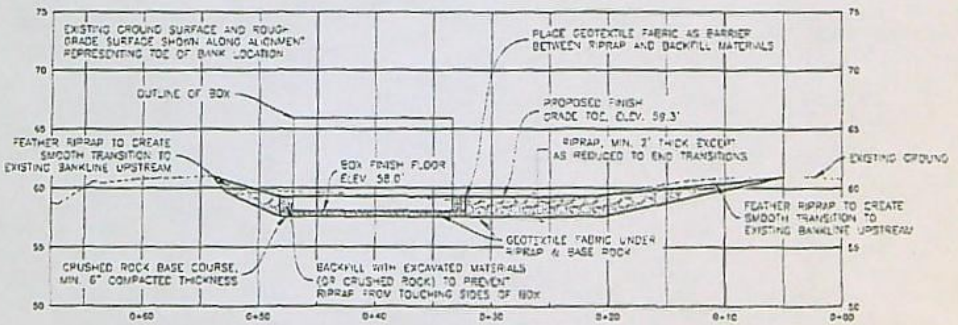
4 of 20



1/C4 LAYOUT PLAN SCALE: 1"=5'-0"



2/C4 PROFILE SCALE: 1"=5'-0"
ALONG LEFT BANK TOE

OREGON Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH PASSAGE ENGINEERING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6201 FAX: (503) 947-6203
Fish & Wildlife

REV. | DATE | DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
LAYOUT PLAN & PROFILE

DATE: 8-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET C4
OF

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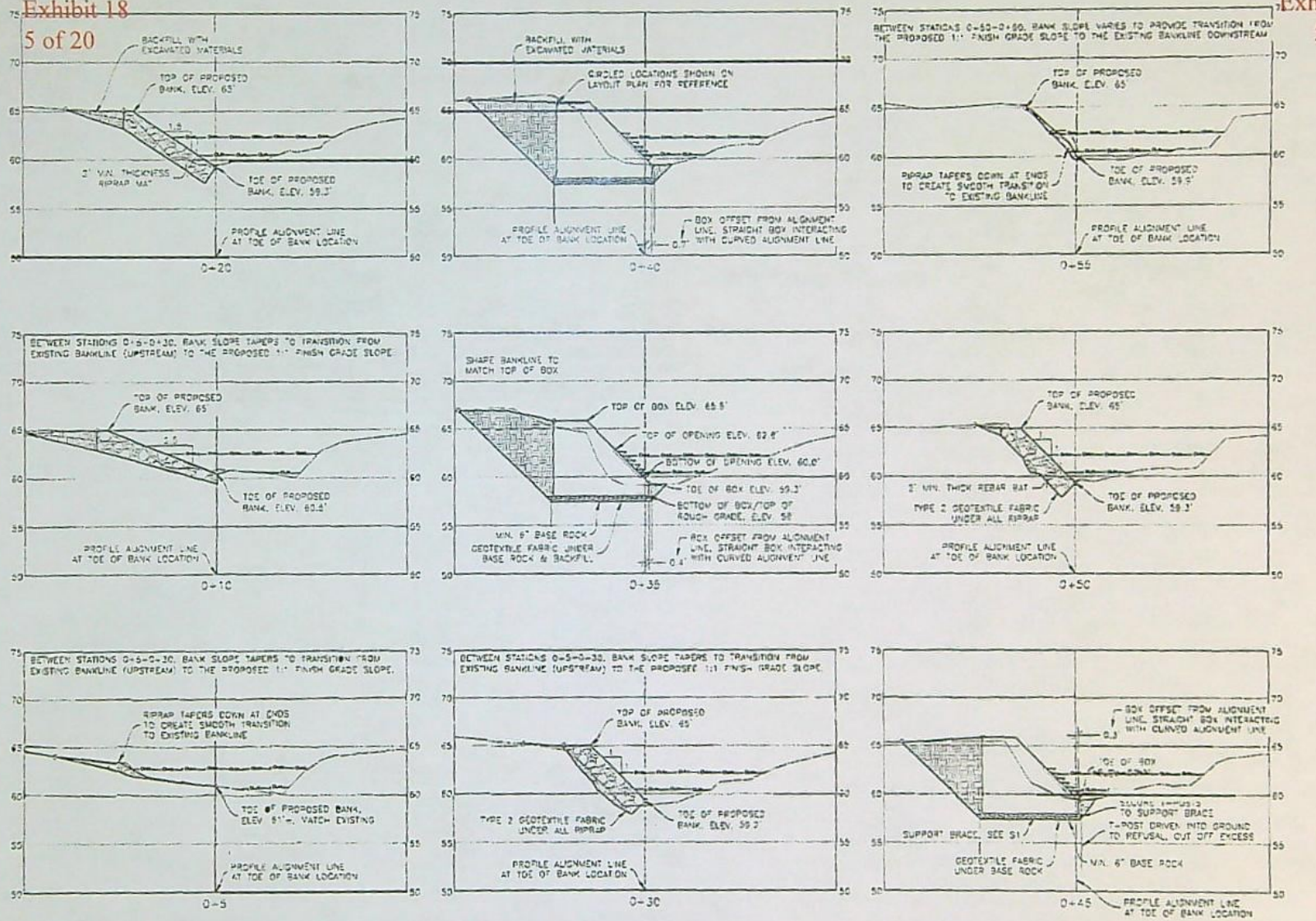

CROSS SECTIONS SCALE: 1"=5'-0"

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6234 FAX: (503) 947-6203

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
CROSS SECTIONS

DATE: 6-4-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET C5
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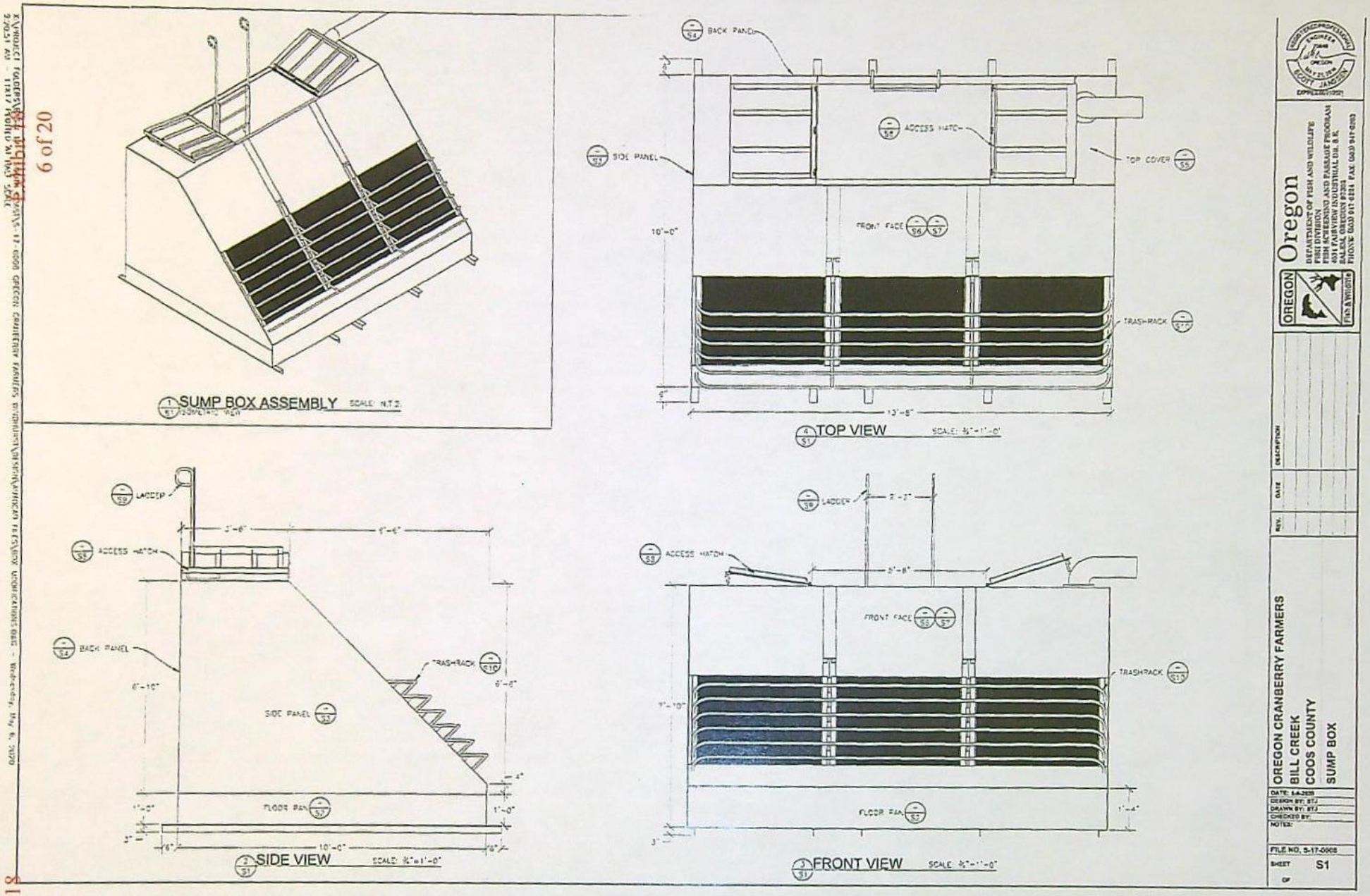

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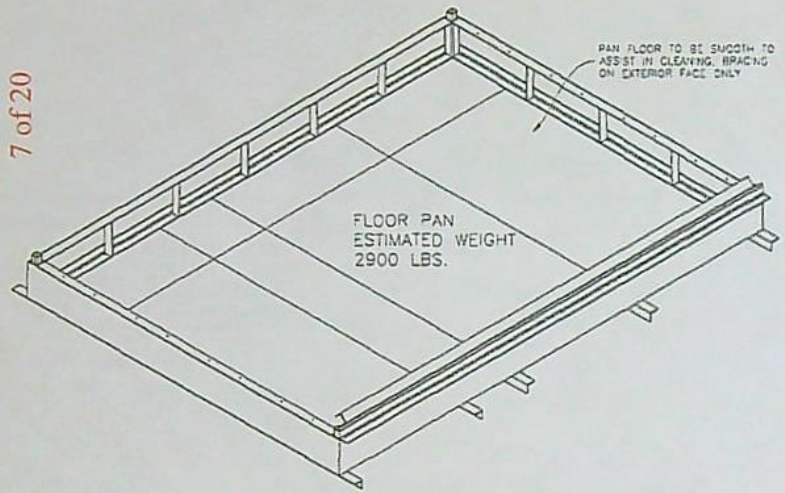
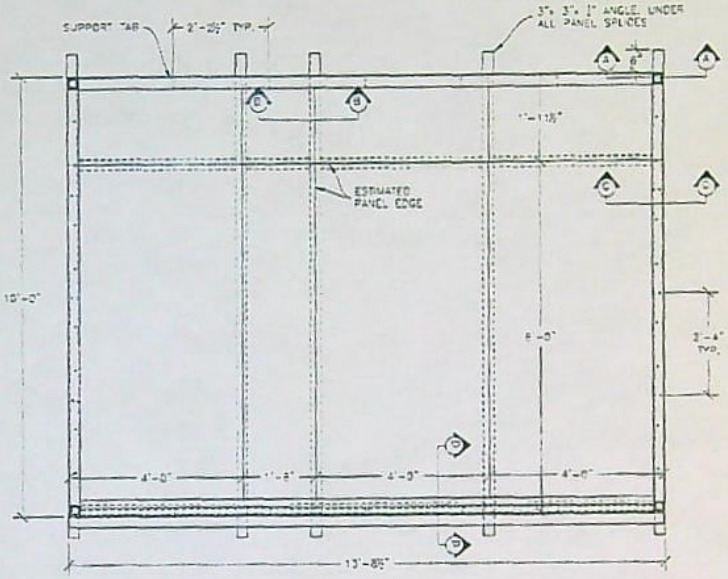
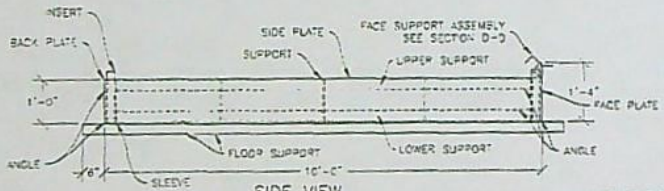
6 of 20



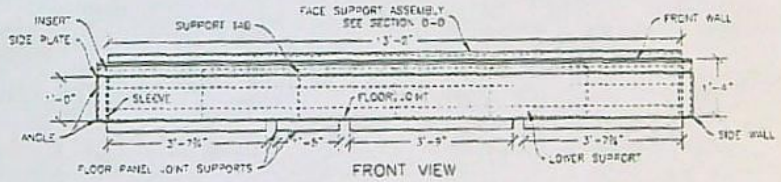
ISOMETRIC VIEW



TOP VIEW

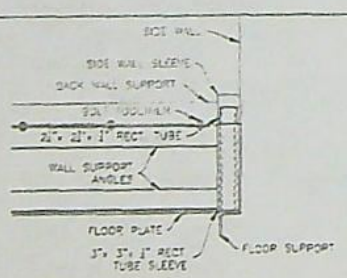


SIDE VIEW

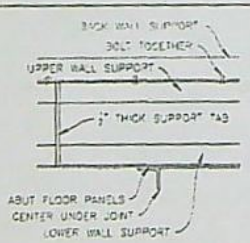


FRONT VIEW

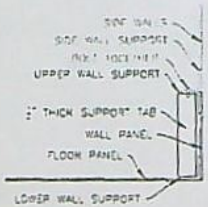
1 S7 FLOOR PAN SCALE: ¾"=1'-0"



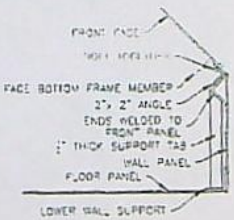
SECTION A-A
CORNER SLEEVE DETAIL



SECTION B-B
FLOOR PANEL SPLICE & WALL SUPPORTS
TYP. OF SIDE WALLS & BACK WALL



SECTION C-C
WALL SUPPORTS

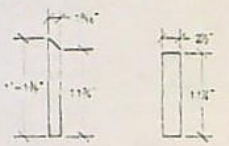


SECTION D-D
FRONT FACE SUPPORT

S7 SECTIONS VIEWS SCALE: ⅜"=1'-0"

MATERIALS

3" x 3" x ¼" ANGLE
SIDES - 4 @ 9'-0"
BACK - 2 @ 13'-8"
FRONT - 2 @ 13'-2"
FLOOR - 5 @ 11'-0"
FLOOR - 2 @ 3'-7½"
FLOOR - 1 @ 3'-9"
FLOOR - 1 @ 1'-5"
3" x 3" x ¼" ANGLE
FRONT - 1 @ 13'-2"
¼" STEEL PLATE (AS SHOWN)
FLOOR - 3 @ 4" x 8"
FLOOR - 1 @ 1'-8½" x 8"
FLOOR - 3 @ 4" x 1'-11½"
FLOOR - 1 @ 1'-8½" x 1'-11½"
SIDES - 2 @ 1'-0" x 10'-0"
FRONT - 1 @ 1'-4" x 13'-8"
BACK - 1 @ 1'-0" x 13'-8"
3" x 3" x ¼" RECT TUBE
SLEEVE - 4 @ 12"
2½" x 2½" x ¼" RECT TUBE
INSERT - 4 @ 1'-2"



SUPPORT TABS ¼" STEEL PLATE

REGISTERED PROFESSIONAL ENGINEER OREGON SCOTT JANSSEN EXPIRES: 6/30/22

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. N.E.
SALEM, OREGON 97303
PHONE (503) 947-6231 FAX (503) 947-6203

OREGON FISH & WILDLIFE

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FLOOR PAN

DATE: 5-8-2020
DESIGN BY: RTJ
DRAWN BY: RTJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S2
OF

Exhibit 18
7 of 20

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Salem, OR

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9/26/2020 4:09:49 PM J:\STAFF\RTJ\2017\S-17-0008 OREGON CRANBERRY FARMERS\DRAWINGS\MODIFICATIONS\S-17-0008 FLOOR PAN.DWG

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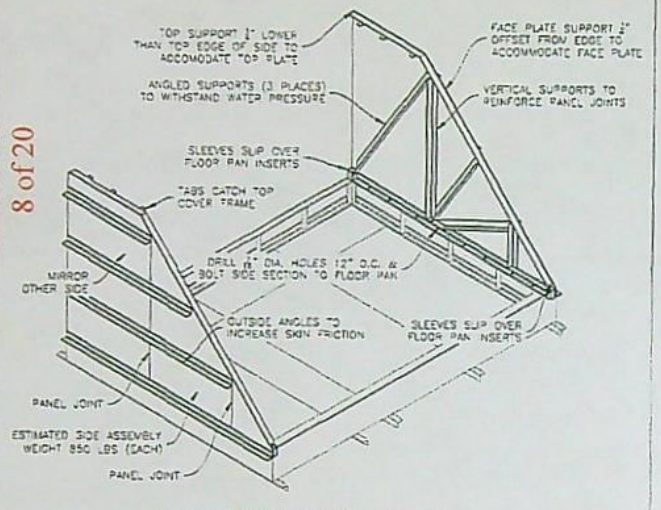
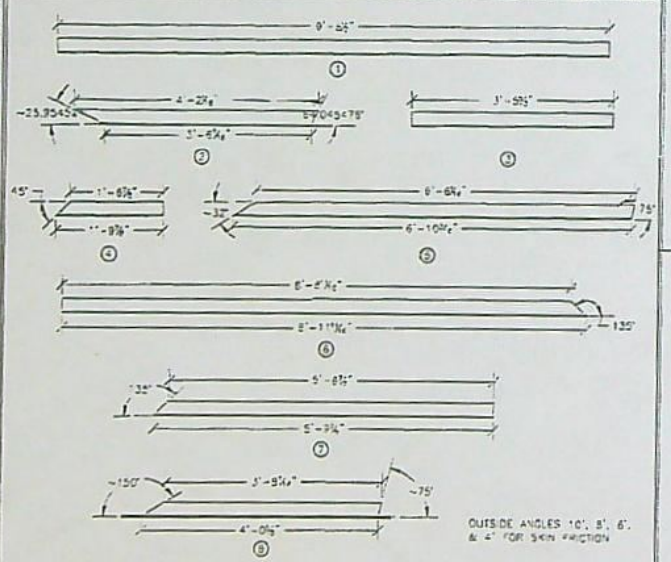
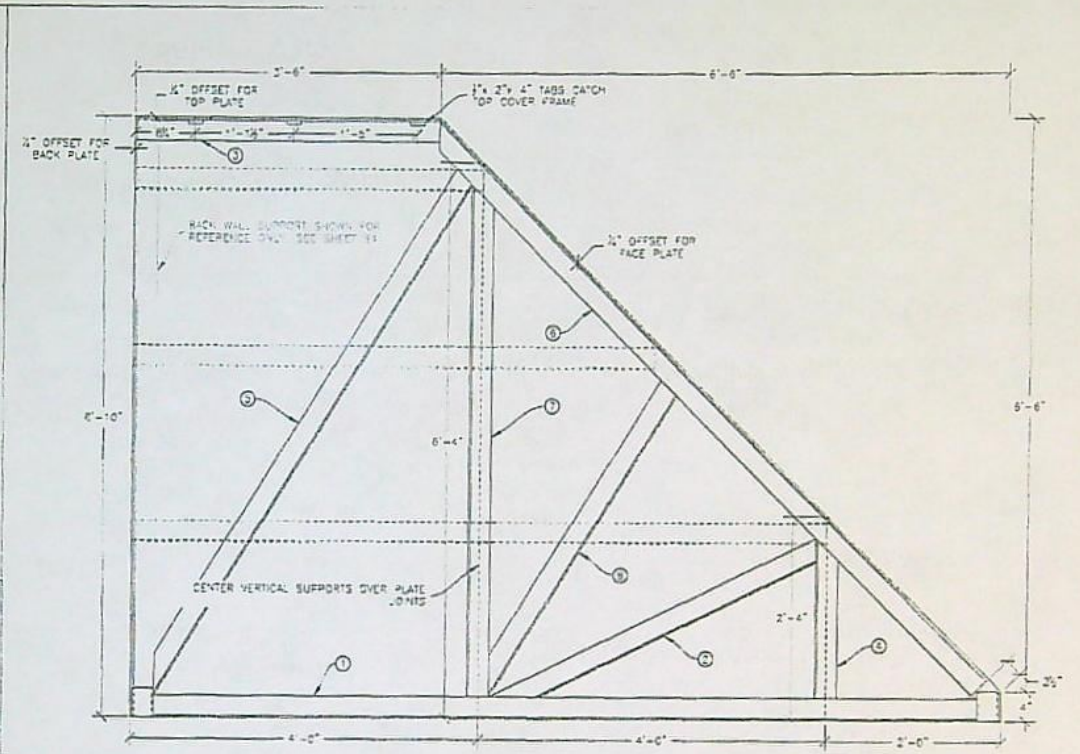
8 of 20



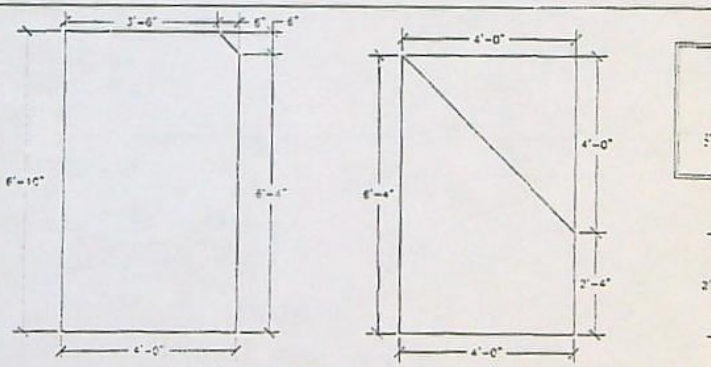
1 S3 SIDE ASSEMBLY SCALE: N.T.S.



3 S3 SUPPORT MEMBERS SCALE: 1"=1'-0" * EACH, 3"x 3"x ¼" ANGLE MIRROR FOR OPPOSITE SIDE



2 S3 SIDE PANEL LAYOUT SCALE: ½"=1'-0" MIRROR OPPOSITE SIDE



4 S3 PANEL MEMBERS SCALE: ¾"=1'-0" CUT FROM ½" STEEL PLATE MIRROR FOR OPPOSITE SIDE

REGISTERED PROFESSIONAL ENGINEER 20848 OREGON JULY 21, 1978 SCOTT JANSSEN EXPIRES: 6/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE (503) 947-6201 FAX (503) 947-6201

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
SIDE WALLS

DATE: 6-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. 3-17-0008
SHEET S3
OF

X:\PROJECT FOLDERS\3-17-0008 OREGON CRANBERRY FARMERS RENOVATION\DESIGN\AUTOCAD FILES\WDFW MODIFICATIONS.DWG Wednesday, May 6, 2020 9:21:06 AM 11X17 (1.0 in x 17.0 in)

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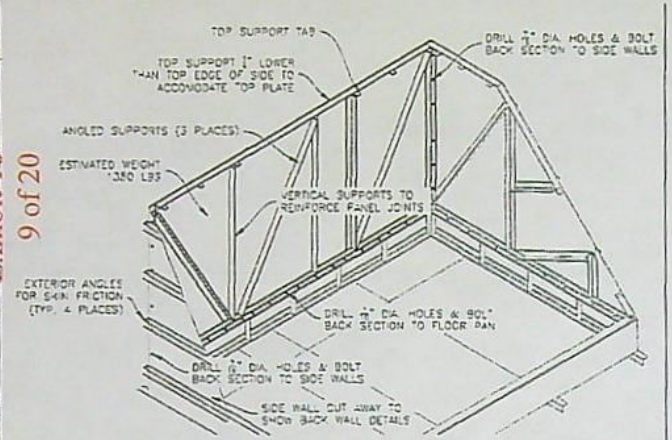
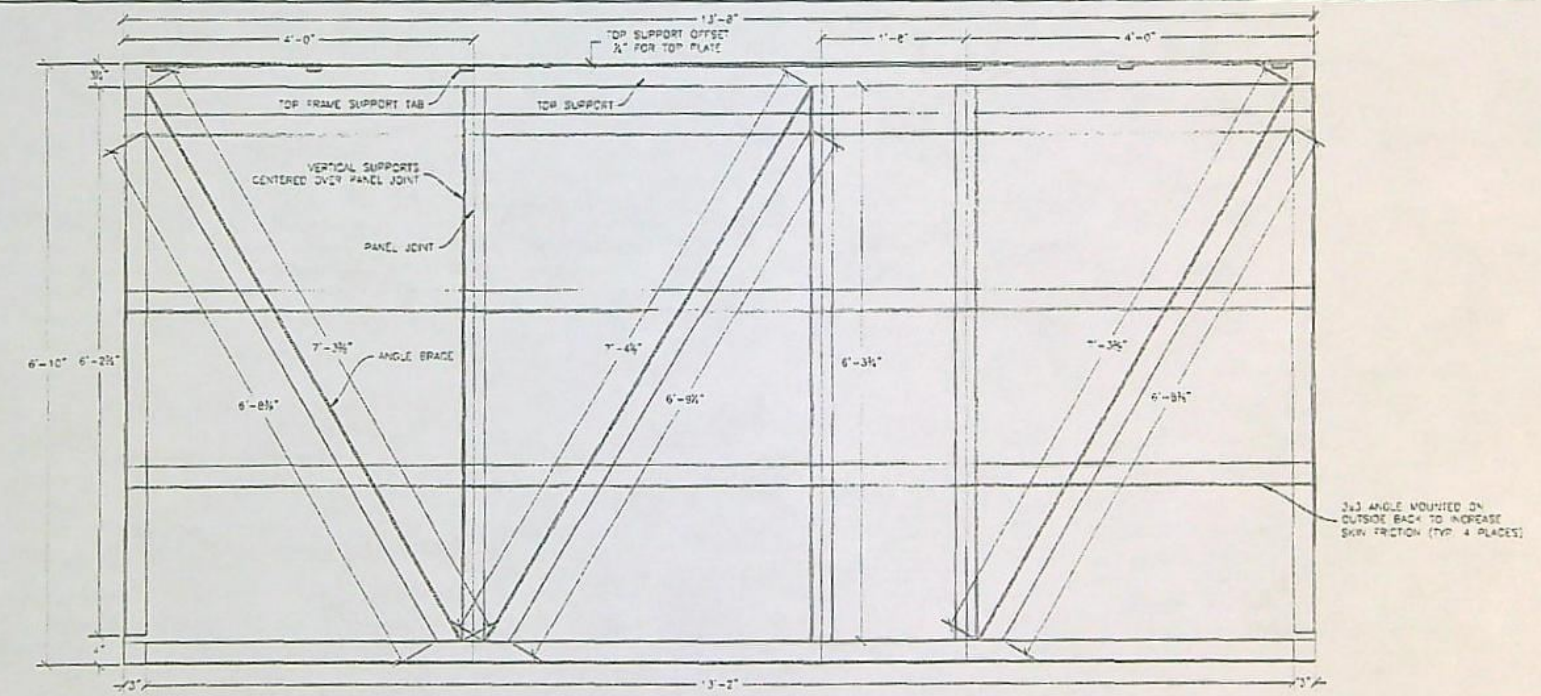


1/64 ISOMETRIC VIEW **BACK ASSEMBLY** SCALE: N.T.S.

MATERIALS:
3 @ 6'-10" x 4'-0" PANELS
1 @ 6'-10" x 1'-8" PANEL
1 @ 13'-2" 3x3x¼" TOP SUPPORT
1 @ 13'-2" 3x3x¼" BOTTOM SUPPORT
2 @ 6'-3½" 3x3x¼" SIDE SUPPORTS
3 @ 6'-3½" 3x3x¼" VERTICAL SUPPORTS
2 @ 7'-3½" 3x3x¼" ANGLE BRACES
1 @ 7'-4½" 3x3x¼" ANGLE BRACE
4 @ 13'-8" 3x3x¼" EXTERIOR ANGLES
6 @ 3"x 4"x ¼" TOP SUPPORT TABS

NOTE: LADDER CONNECTS TO BACK WALL SEE SHEET S10 FOR DETAILS



Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6234 FAX: (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
BACK WALL

DATE: 5-4-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S4
OF

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JUL 08 2021
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Received by OWRD
SEP 05 2024
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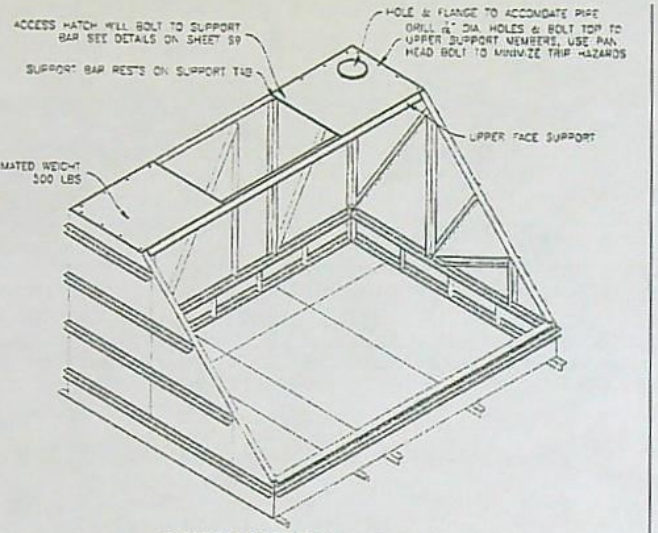
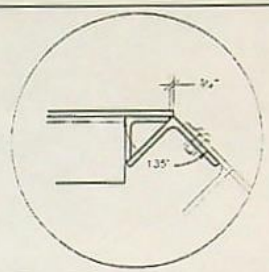
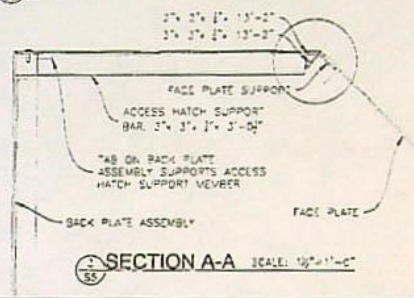


1/S5 TOP ASSEMBLY SCALE: N.T.S.
ISOMETRIC VIEW

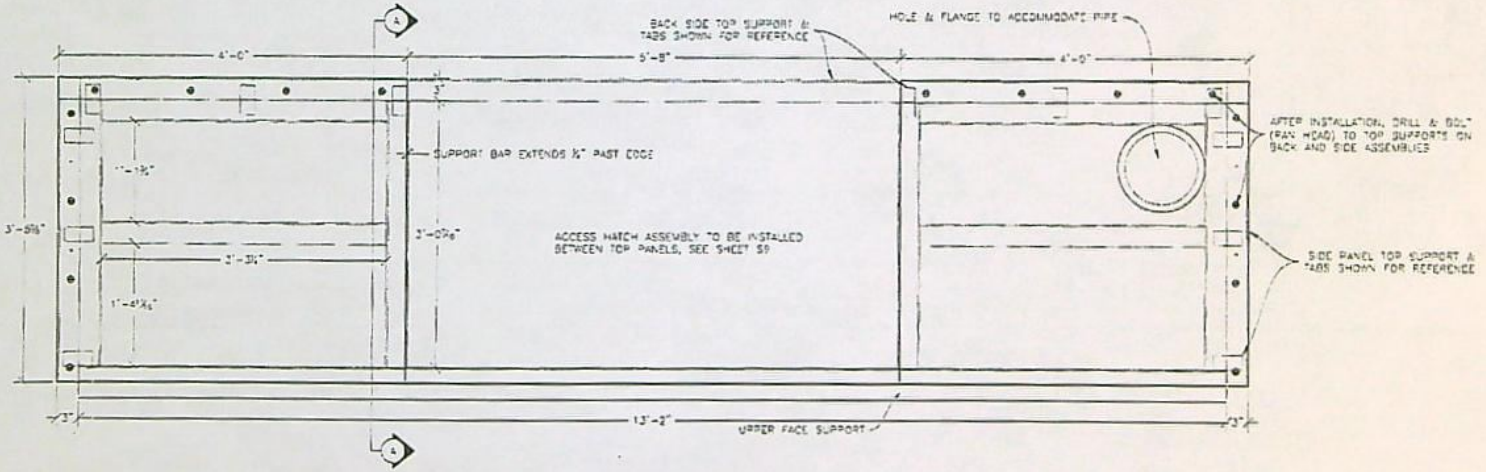
MATERIALS
1 @ 4'-0"x 4'-0" PANEL
1 @ 4'-0"x 4'-0" PANEL WITH PIPE HOLE
1 FLANGE FOR PIPE CONNECTION
4 @ 3'-0¾" 3x3x¼" ACCESS HATCH SUPPORT
4 @ 3'-3" 3x3x¼" ACCESS HATCH SUPPORT
1 @ 13'-2" 2x2x¼" FACE PLATE SUPPORT
1 @ 13'-2" 3x3x¼" FACE PLATE SUPPORT



5/S5 FACE PLATE SUPPORT SCALE: 3"=1'-0"



2/S5 SECTION A-A SCALE: 1½"=1'-0"



4/S5 TOP PANELS SCALE: 1½"=1'-0"
TOP VIEW

REGISTERED PROFESSIONAL ENGINEER OREGON MAY 21, 1976 SCOTT JANSSEN EXPIRES: 6/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
COASTAL WATERSHED AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6333

OREGON Fish & Wildlife

NO.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TOP COVER

DATE: 04-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. 5-17-0008
SHEET S5
OF

XX PROJECTS\DESIGNS\5-17-0008 BILL CREEK CRANBERRY FARMS\WORKING DRAWINGS\5-17-0008 - Working.dwg, May 6, 2020, 9:21:19 AM, JOHN, 11X17

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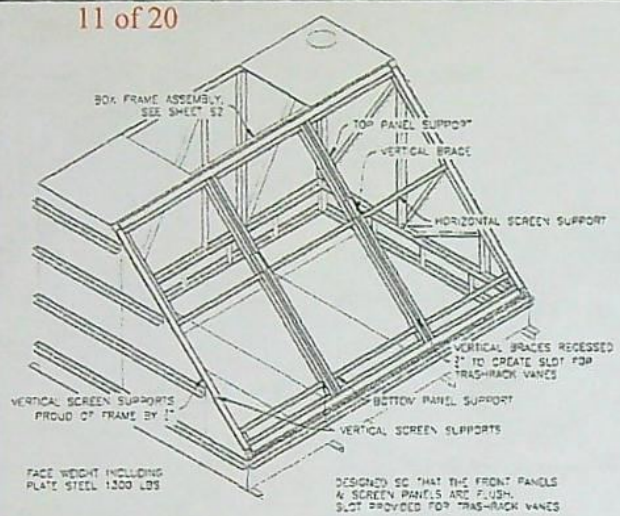
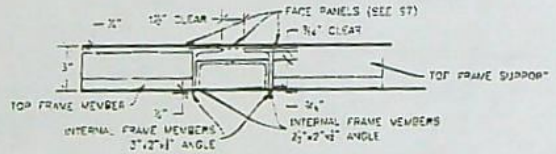
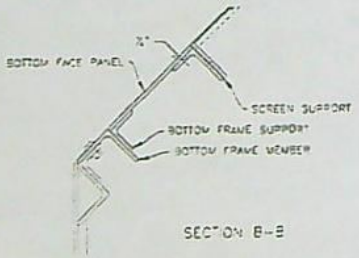


1 / S6 FACE BRACING ISOMETRIC VIEW SCALE: N.T.S.

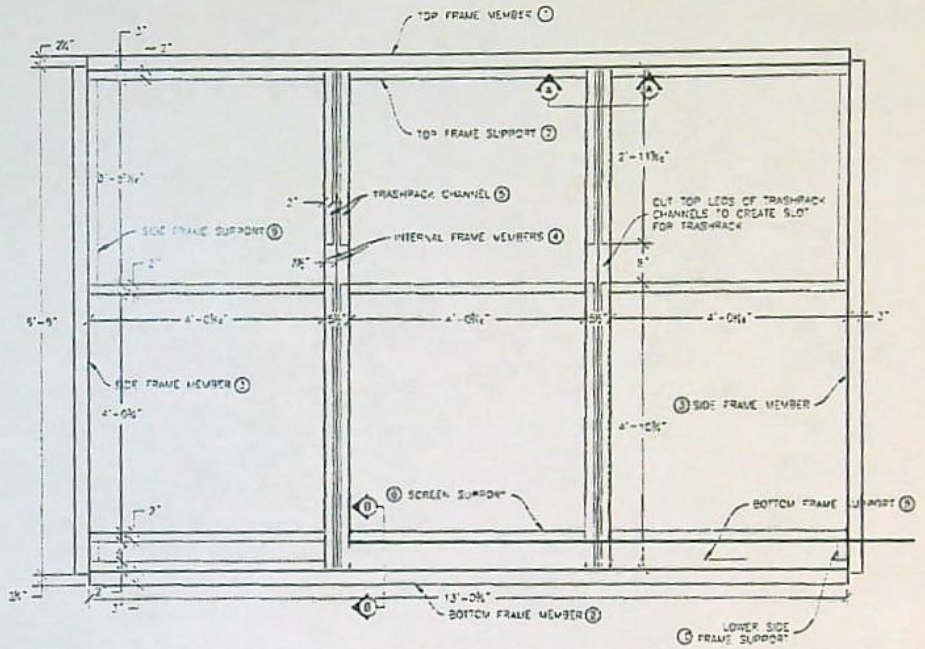


SECTION A–A SAME AT BOTTOM FRAME MEMBER CONNECTION



SECTION B–B

2 / S6 SECTION VIEWS SCALE: 3"=1'-0"



2 / S6 FACE BRACING LAYOUT SCALE: 1"=1'-0"

LABEL	DESCRIPTION	MATERIAL	LENGTH	NOTES
1	TOP FRAME MEMBER	3x2x¼"	13'-0⅜"	SEE DETAIL 4 ON SHEET S5
2	BOTTOM FRAME MEMBER	3x2x¼"	13'-0⅜"	SEE SECTION B-B ON SHEET S2
3	SIDE FRAME MEMBERS	3x2x¼"	6'-2"	2 REQUIRED. BOLT TO SIDE FRAME SUPPORTS
4	INTERNAL FRAME MEMBERS	2½x2x¼"	5'-6⅜"	4 REQUIRED. WELD TOGETHER & TO TOP AND BOTTOM FRAME MEMBERS
5	TRASHRACK CHANNEL MEMBERS	2x3x¼"	9'-6⅜"	4 REQUIRED. SEE SECTION A-A
6	SCREEN SUPPORTS	2x2x¼"	4'-0⅜"	6 REQUIRED. SEE SECTION B-B
7	TOP FRAME SUPPORT	2x2x¼"	4'-0⅜"	3 REQUIRED. 2" LOWER THAN TOP FRAME. TO SUPPORT FACE PANEL
8	BOTTOM FRAME SUPPORT	2x2x¼"	4'-0⅜"	3 REQUIRED. SEE SECTION B-B
9	SIDE FRAME SUPPORT	2x2x¼"	3'-5½"	2 REQUIRED. 1" LOWER THAN SIDE FRAME. TO SUPPORT FACE PANEL
10	LOWER SIDE FRAME SUPPORT	2x2x¼"	0'-4"	2 REQUIRED. 2" LOWER THAN SIDE FRAME. TO SUPPORT FACE PANEL

¼" PLATE WELDED TO FACE BRACING. SEE SHEET S7 FOR PANEL DETAILS

AFTER ASSEMBLY, DRILL FRAME MEMBERS, FACE, AND SUPPORT MEMBERS (TOP, SIDES, & BOTTOM). BOLT USING PAN HEAD SCREWS, WASHERS, & NUT. PAN HEAD ON OUTSIDE FRONT FACE.

REGISTERED PROFESSIONAL ENGINEER — OREGON — JULY 21, 1978 — SCOTT JACKSON — EXPIRES: 12/31/2021

Oregon — DEPARTMENT OF FISH AND WILDLIFE — FISH DIVISION — FISH PASSAGE AND PASSAGE PROGRAM — 4034 FAIRVIEW INDUSTRIAL DR. S.E. — SALEM, OREGON 97302 — PHONE (503) 947-6221 FAX: (503) 947-6203

OREGON Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FACE BRACING

DATE: 8-4-2020
DESIGN BY: RTJ
DRAWN BY: RTJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008

SHEET S6 OF

X:\PROJECTS\FISH\WASH\17 - SOUTH COAST\S-17-0008 OREGON CRANBERRY FARMERS WEIR\STRUCTURES\MAIN ROAD FILES\BOX MODIFICATIONS.DWG - Wednesday, May 6, 2020 9:21:22 AM - 11X17 PLOTTED AT HALF SCALE

RECEIVED
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OWRD

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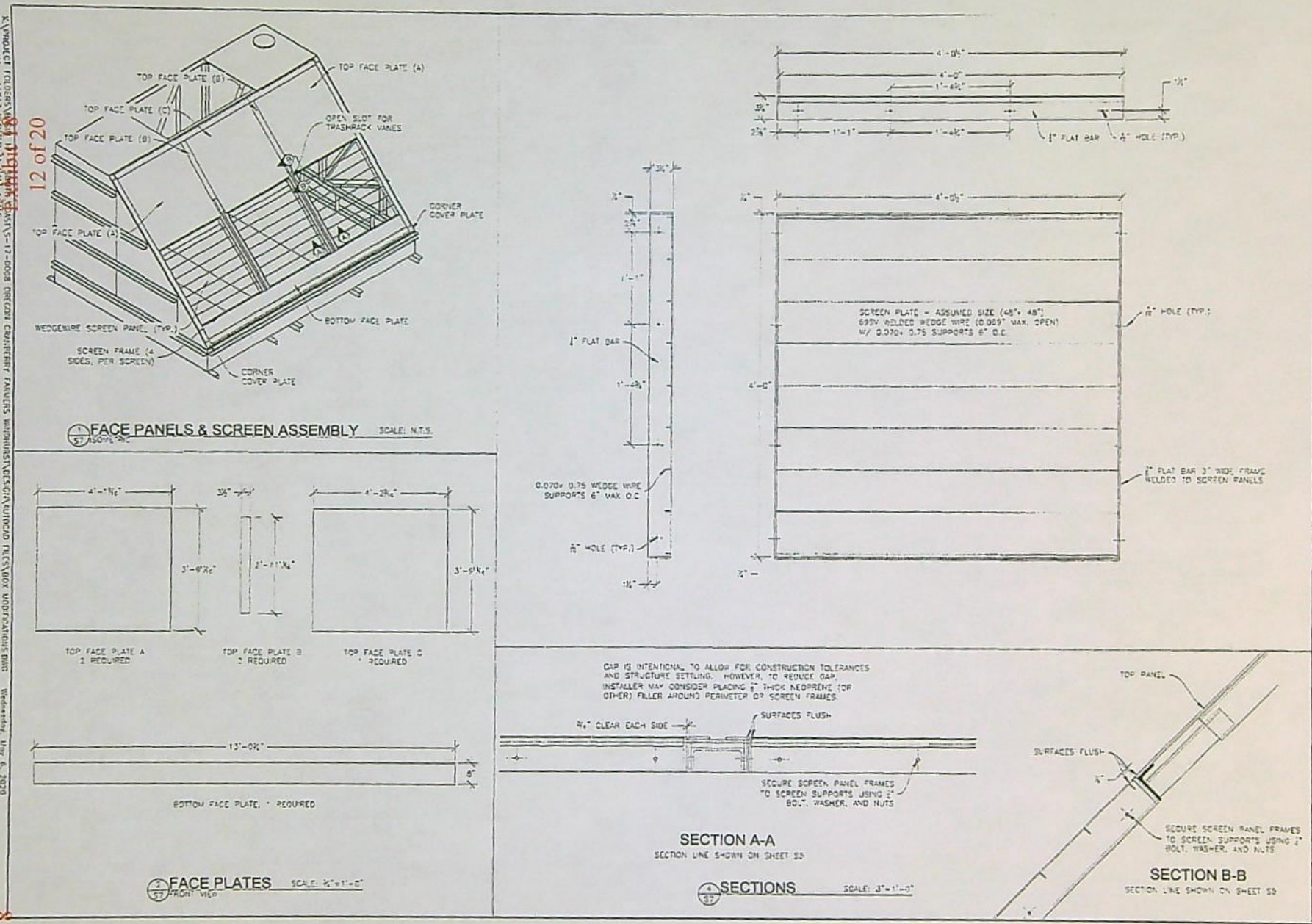
Salem, OR



Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
1031 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6221 FAX: (503) 947-6203

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FACE PANELS & SCREEN

DATE: 5-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S7
OF

K:\PROJECT FOLDERS\6018 18 FISH SCREENS\S-17-0008 OREGON CRANBERRY FARMERS WINDHURST\DESIGN\AUTOCAD FILES\BOX MODIFICATIONS.DWG Wednesday, May 6, 2020 9:21:29 AM - 11X17 PLOTTED AT HALF SCALE

Exhibit 18
12 of 20

Exhibit 18
12 of 20

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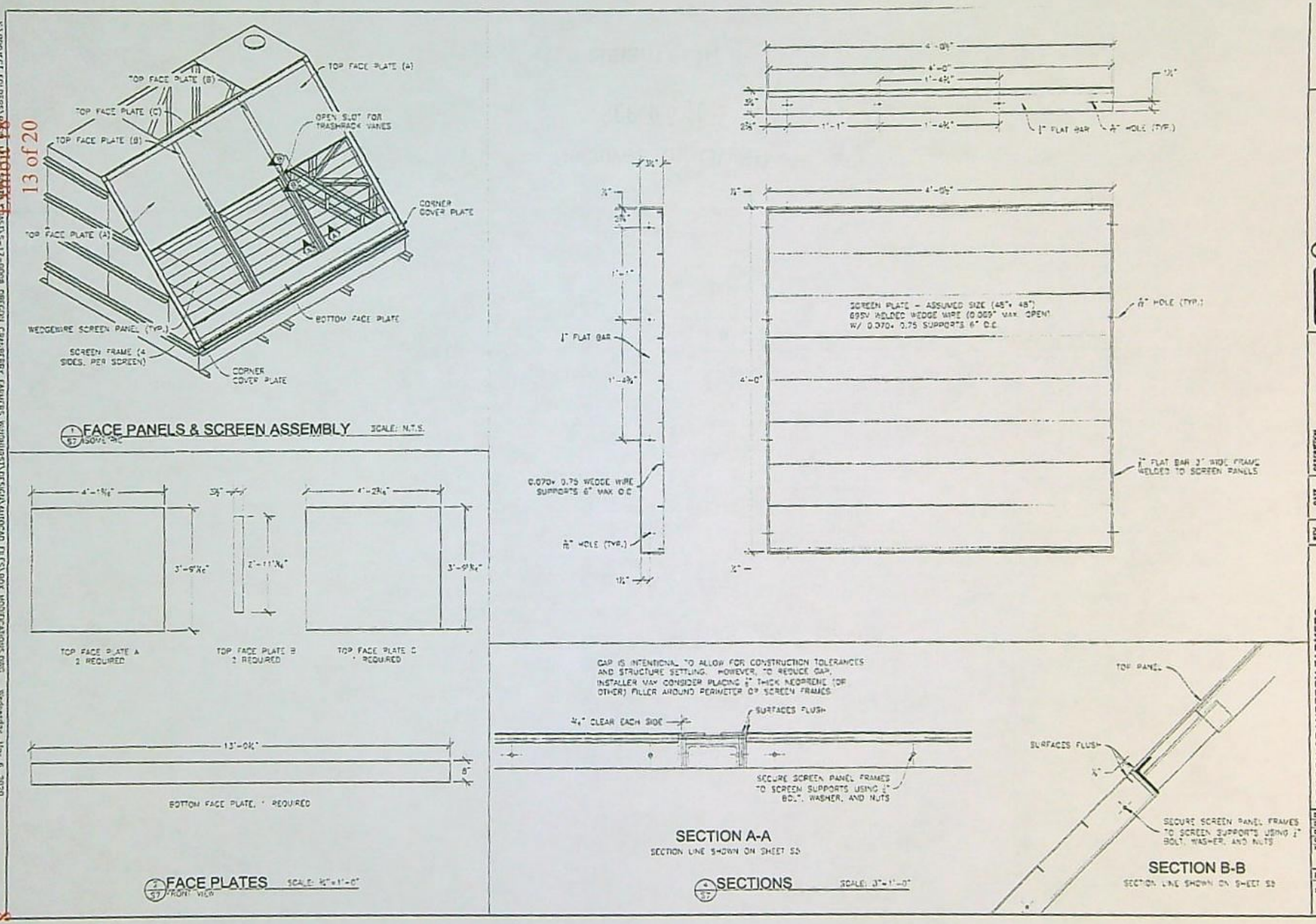

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
5331 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FACE PANELS & SCREEN

FILE NO. S-17-0008
SHEET S7

Exhibit 18
13 of 20

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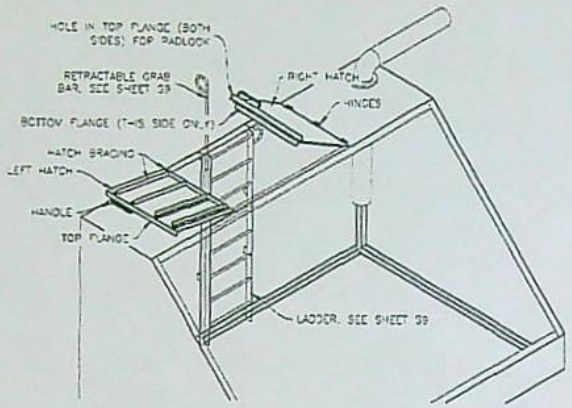
Exhibit 18
14 of 20

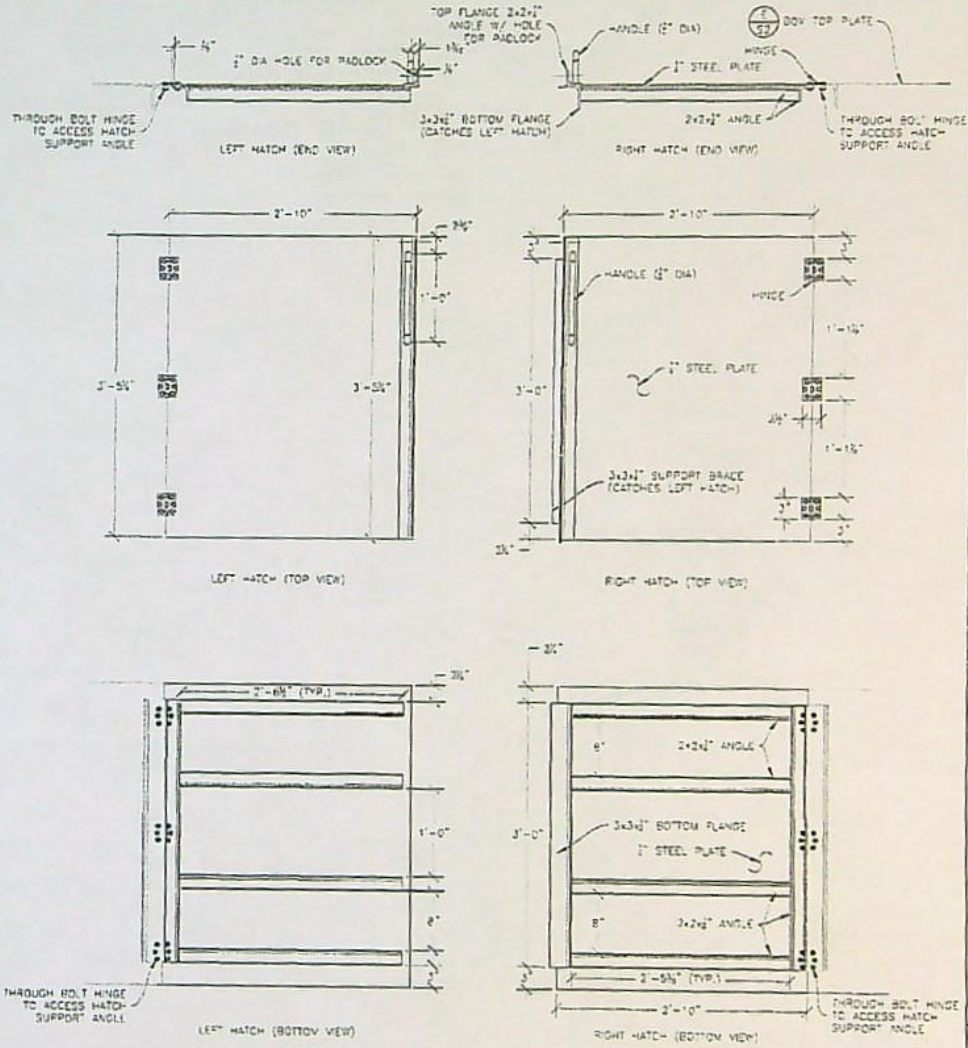


1 S8 ACCESS HATCH SCALE: N.T.S.
ISOMETRIC VIEW

MATERIALS LIST

2	1" STEEL PLATE	2'-10"x 3'-5½"
4	3x2x¼" ANGLE	2'-4½"
4	2x2x¼" ANGLE	2'-5½"
2	2x2x¼" ANGLE	3'-0"
1	3x3x¼" ANGLE	3'-0"
2	2x2x¼" ANGLE	3'-5½" WITH HOLE FOR PADLOCK
2	HANDLES	¾" DIA. ROUND BAR
6	HEAVY DUTY HINGES	

RECEIVED
JUL 08 2021
OWRD



2 S8 HATCH DETAILS SCALE: 1½"=1'-0"

OREGON
Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
17330 SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6221 FAX: (503) 947-6203

NO.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
ACCESS HATCH

DATE: 5-5-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S8
OF

Exhibit 18
14 of 20

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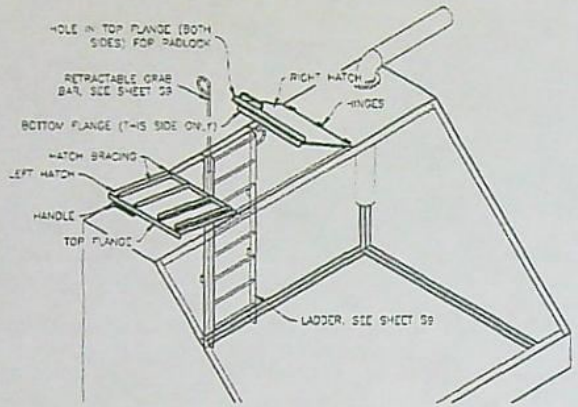
Salem, OR

Exhibit 18
15 of 20



1 S9 ACCESS HATCH SCALE: N.T.S
ISOMETRIC VIEW

MATERIALS LIST

2	¼" STEEL PLATE	2'-10"x 3'-5½"
4	2x2x¼" ANGLE	2'-6½"
4	2x2x¼" ANGLE	2'-5½"
2	2x2x¼" ANGLE	3'-0"
1	3x3x¼" ANGLE	3'-0"
2	2x2x¼" ANGLE	3'-5½" WITH HOLE FOR PADLOCK
2	HANDLES	¾" DIA. ROUND BAR
6	HEAVY DUTY HINGES	

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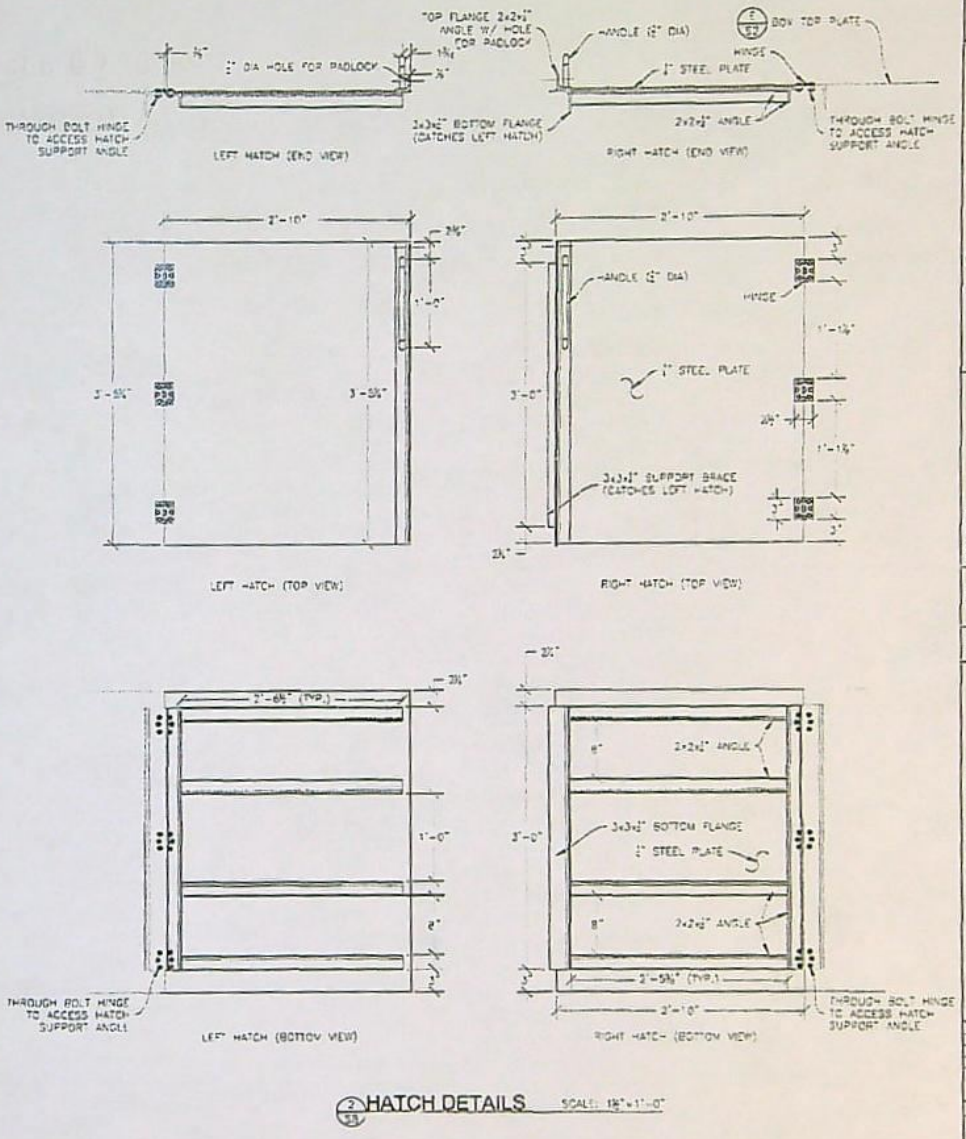

2 S9 HATCH DETAILS SCALE: 1½"=1'-0"

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
2501 SW FIRST AVENUE/PO BOX 59
PORTLAND, OREGON 97207
PHONE: (503) 947-6200 FAX: (503) 947-6202

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
ACCESS HATCH

DATE: 5-8-2020
DESIGN BY: ETJ
DRAWN BY: ETJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S8
OF

Exhibit 18
15 of 20

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LOCATION MAP



VICINITY MAP

Sheet List Table

SHEET NUMBER	SHEET TITLE
G1	TITLE SHEET
G2	SPECIFICATIONS 1 OF 2
G3	SPECIFICATIONS 2 OF 2
G4	VICINITY MAP
G5	EXISTING SITE PLAN
G6	PROPOSED SITE PLAN
G7	LAYOUT PLAN & MANHOLE
G8	CROSS SECTIONS
G9	SLANT RISK
G10	FLOOR PAN
G11	SIDE WALLS
G12	BACK WALL
G13	TOP COVER
G14	FACE BRACING
G15	FACE PANELS & SCREEN
G16	ACCESS HATCH
G17	LADDER
G18	TRASH RACK

OREGON CRANBERRY FARMERS, BILL CREEK

OWNER
JOHN KUEN
PO BOX 352
BANDON, OR 97411

OREGON CRANBERRY FARMS - WINCHURST
PROJECT #: 5-417-8005
LAT 43.08678° LONG -124.30739°
WATER RIGHT #: 76045

SCREENS INFORMATION
HYDRAULIC FLOW TO BE 10 CFS
WEDGEWIRE PASSIVE SCREEN 11" x 4' (ARSF)

ENGINEER
OREGON DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE ENGINEER
4034 FAIRVIEW INDUSTRIAL DR SE
SALEM OR. 97302

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE ENGINEER
4034 FAIRVIEW INDUSTRIAL DR SE
SALEM, OREGON 97302
PHONE: (503) 947-6225 FAX: (503) 947-6202

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TITLE SHEET

DATE 4/29/2021
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. 5-15-0127
SHEET G1
OF

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16 of 20

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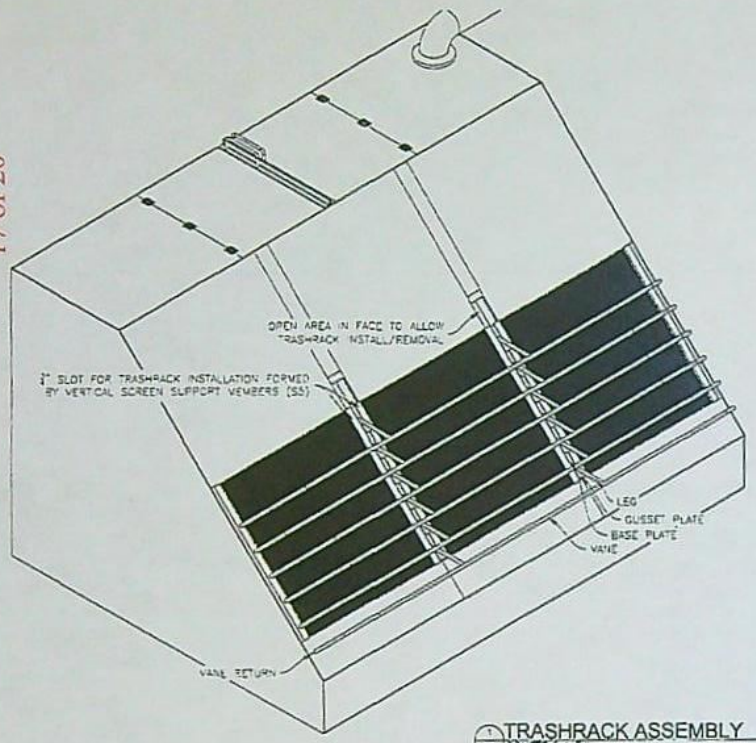
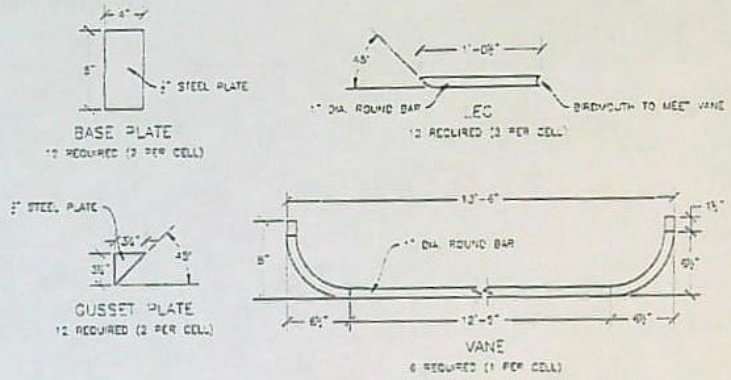


TRASHRACK ASSEMBLY SCALE: N.T.S.
S10 ISOMETRIC VIEW



TRASHRACK COMPONENTS SCALE: 3"=1'-0"
S10

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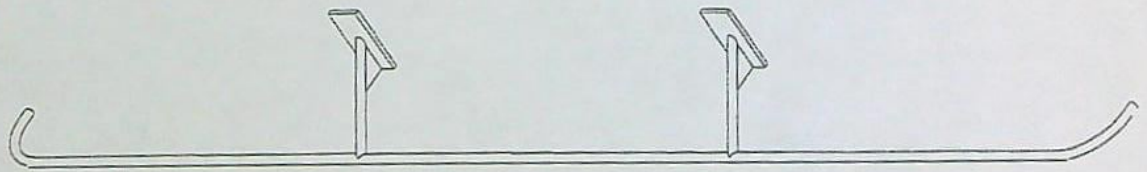
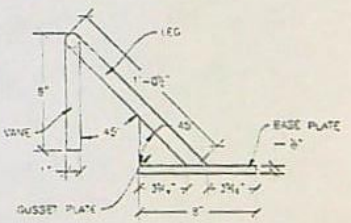


TRASHRACK CELL SCALE: 3"=1'-0"
S10 ISOMETRIC VIEW
6 REQUIRED



TRASHRACK CELL SCALE: 3"=1'-0"
S10 SIDE VIEW

OREGON Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203
Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TRASHRACK

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S10
OF

Exhibit 18
17 of 20

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18 of 20

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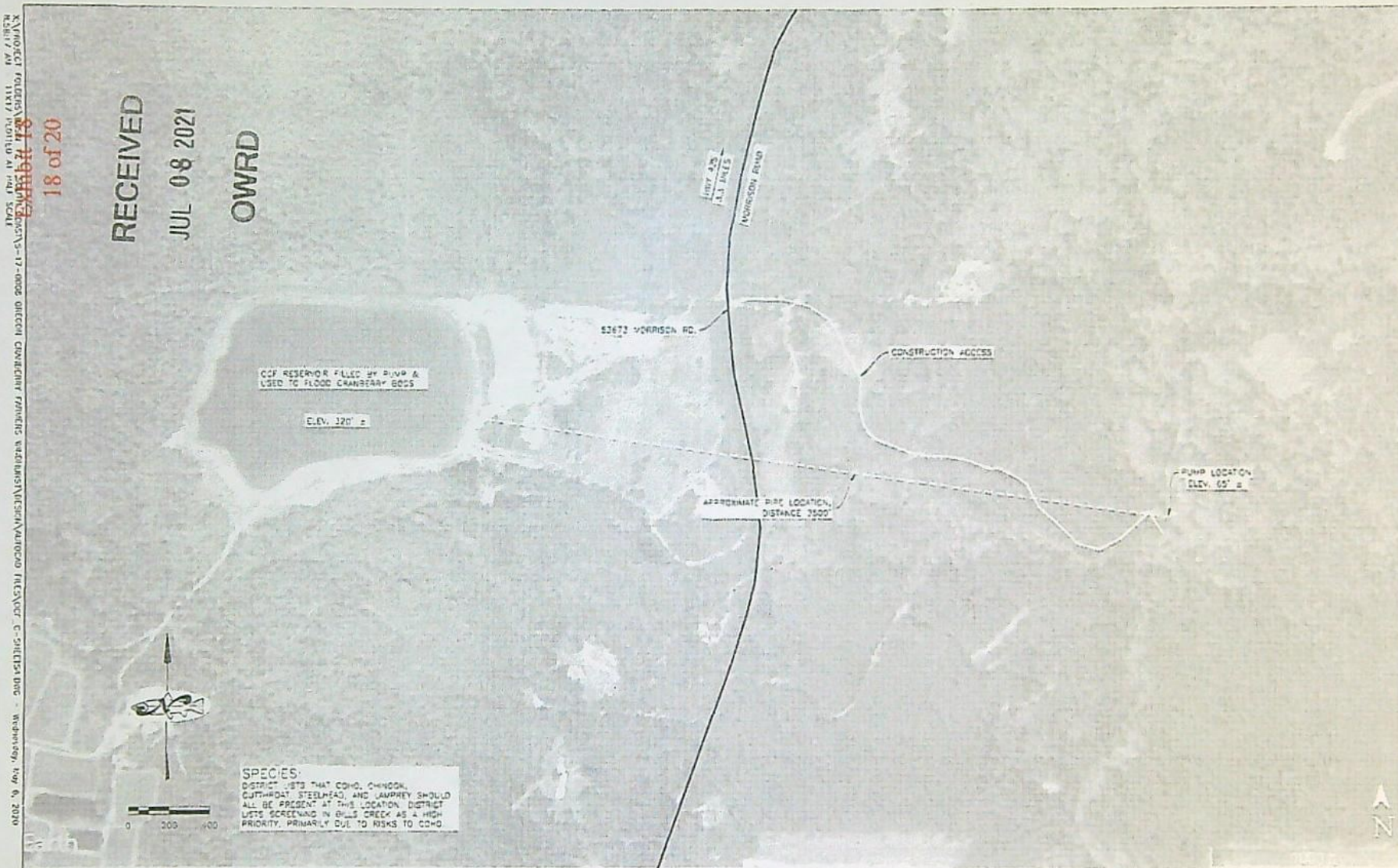

VICINITY MAP SCALE: 1"=20'-0"

OREGON Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
1314 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
(PHONE: (503) 947 6224 FAX: (503) 947 6203)

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
VICINITY MAP

DATE: 5-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0005
SHEET C1
OF

Exhibit 18
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19 of 20

EXHIBIT C - APPLICATION

Fish Screening and Passage Program
Oregon Department of Fish and Wildlife

Cost Share Grant Application

ODFW USE ONLY	Title: Oregon Cranberry Farmers - Windhurst		Project #: S-17-0008
Project Type: S	Activity: Replacement	Amount: $65,037.20	Date received:

APPLICANT- Fill In	CONTACT INFORMATION	
APPLICANT, CO-APPLICANT, PROJECT CONTACT, WATER USER, LAND OWNER, DIVERSION OWNER	Name: Roth, John	Work phone: 541-347-2437
	Title:	Home phone:
	Business Name: Bandon Cranberry Water Control District	Cell/Other: 541-297-6292
	Mailing Address: 555 Hwy 101	Fax:
	City/State/Zip: Bandon, OR 97411	Email:

Applicant- Fill In	DIVERSION DETAILS	
Diversion Name: Oregon Cranberry Growers - Windhurst		Diversion Flow Relative to Stream Flow (%): 50.000
GPS Based Diversion Location		
Latitide: 43.08678		Longitude: -124.34739
Digitally Derived Diversion Location		
Latitide: 43.08676	Longitude: -124.34725	County: Coos
Basin: South Coast	District: Umpqua	Stream: Bill Creek
Quarter:	House District: 1	Senate District: 1
HUC: 17100305	Watershed Council Area: Coquille Watershed Association	
LLID: 1243369431063	Tributary Of: Bear Creek	
Notes:		

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Water Rights

Water Permit Number	Water Permit Date	Water Certificate Number	Water Certificate Date	Water Right CFS	Comments
S-53703	6/30/1988			2.75	
Total Water Right CFS:				2.75	

Water Use

Water Use	Water Period	Description
Irrigation	Jan, Feb, Mar, Apr, May, Nov, Dec	POD is used during winter months to supply reservoir

Applicant- Fill In	PROJECT INFORMATION
Summary: A screened vault will be installed to replace a failed pump screen on Bill Creek, near Bandon in Coos County.	
Purpose: ODFW cost shared a Sure-Flo screen for a pump intake that is only used during the winter months. The screen failed almost immediately due to the high flows and large amounts of debris that the site regularly experiences. Rather than continuing to deal with the ongoing damage to the intake pipe and screen, the preferred solution is to install a screened vault within the bank, which will be much less susceptible to high-flow damage. The design has already been completed by ODFW. ODFW considers the stream to be a high priority for screening due to the presence of listed coho. Chinook, cutthroat, steelhead and lamprey are also	

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Exhibit 18
20 of 20

present.
Estimated TimeLines: The screen shop plans to purchase the materials this spring, and do the fabrication as time allows. Late summer 2021 is the preferred time for installation, but meeting that goal will depend on how well the shop's other scheduled projects go.

Requesting ODFW Engineering Assistance?: Yes	Stream Miles Made Accessible: 0
GPS Based Project Location	
Latitide: 43.08675	Longitude: -124.34724

Digitally Derived Project Location		
Latitide: 43.08676	Longitude: -124.34725	County: Coos
Basin: South Coast	District: Umpqua	Stream: Bill Creek
Quarter:	House District: 1	Senate District: 1
HUC: 17100305	Watershed Council Area: Coquille Watershed Association	
LLID: 1243369431063	Tributary Of: Bear Creek	
Notes:		

ODFW Use Only **SPECIES**
Project yet to be reviewed by ODFW Team.

Screen Priority Points		
Diversion flow relative to stream flow (%): 50.000	Diversions Screened in stream (%): 20% - 40%	Amount of Water Screened: 2.75 (cfs)
Fish Species Status:	Fish Migration:	Fish Numbers:
Habitat Quality:	Basin Priority:	Total Points: 0
Screen Details		
Diversion Type: Pump	Fish Screen Brand: na	Fish Screen Model: na
Installation: Pre-fabricated	Cleaning System: Other	Orientation: N/A
Additional Information: Screen will be a pump vault installed in the bank, with a passive panel screen (3 panels, 4ft x 4ft ea), and trashrack.		

Comments/Recommendations	
District Biologist	
Field Coordinator	
Screen Shop Manager	
State Coordinator	
Program Manager	

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Exhibit 19
1 of 2
File Copy

Exhibit 19
1 of 2

Oregon

WATER
RESOURCES
DEPARTMENT

22 September, 1995

John Youngquist
827 SE Mosher Ave.
Roseburg OR 97470

RE: Windhurst Roads Applications R69708 and 69654

Dear Mr. Youngquist:

As I had not yet received any indication from ODFW that they are withdrawing their protest against Mr. Scherer's applications, I contacted ODFW staff Rick Kruger at 229-6067, Ext. 437, who is filling in for Stephanie Burchfield while she's out on maternity leave.

According to Mr. Kruger, who discussed this with Reese Bender, the proposed project has changed dramatically since it was first applied for (9/88), from a major in-channel dam and "diversion " (34.8 cfs) to many small, off-channel reservoirs, a small (1-foot high) weir for a pump and an unknown (to ODFW) diversion rate. ODFW does not have a copy of the most recent application (6/94) and so does not have the specifics on the above revised project(s), but is very pleased with the switch to off-channel and the small pump diversion and is anxious to sign off on the proposal, once it sees the final proposal in writing and agrees on the specifics of the control structure and minimum bypass flow.

Mr. Kruger reports that you and Reese Bender met on site around October 1994, at which time you discussed and agreed upon conceptual matters only. At this meeting, Reese reports that the parties agreed on the location of the low weir but not on the specifics of the control structure. ODFW is waiting to receive some sort of written final design proposal/drawings. Mr. Kruger notes that since ODFW hasn't seen the latest application either, he would ask that you submit a complete package (new/revised application and final design proposal/drawings), showing/ describing the entire project and how it would function.

Mr. Kruger further noted that of particular concern is the maximum diversion rate of the pump facility and a "minimum flow" at the weir, below which the pump would not operate and no diversion would occur. He understood from Reese that ODFW and you agreed in concept to setting some minimum flow, but that you either did not discuss or agree upon an amount. Maximum diversion rate will be determined by the capacity of the pump. ODFW needs to see the specifics on these and come to agreement on the minimum flow amount before it can "sign off" and withdraw its protest.

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Salem, OR

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

Exhibit 19
2 of 2

I look forward to seeing this matter brought to a close, as I'm sure all the parties do. If you would be so kind as to provide me with a copy of the documentation you send to ODFW, I would appreciate it. I will expect to receive a copy of ODFW's approval and of its withdrawal at some later time.

Sincerely,

Weisha Mize
Administrative Law Judge

cc: John Drolet, Watermaster, Dist. 19
Steve Applegate, WRD, Salem
Rick Kruger, ODFW, Portland

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SEP 05 2024
Salem, OR

Exhibit 20
1 of 1

Oregon
John A. Kitzhaber, M.D., Governor

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

February 26, 1998

URGENT

Jill Zarnowitz
Oregon Department of Fish and Wildlife
2501 SW First Ave, PO Box 59
Portland, Oregon 97207

RE: Settlement of Protest on Windhurst Road Water Corporation Application S-69654: Stipulated Final Order and Agreement

Dear Jill:

Some time ago you signed the agreement settling the protest on Windhurst's reservoir application (R-69708). Enclosed is the stipulated final order and agreement settling the other half of the proposed use - S-69654. This application allows them to use the stored water and some live flow.

This document is the result of a long awaited agreement between the Department, ODFW, and the applicant. Reese Bender from the ODFW Charleston office has been very involved with the settlement and has reviewed the enclosed agreement. (See attached letter from Reese). The settlement is laid out in pages 1-4 of the document so I will not try to summarize it here.

ODFW has official party status to this case and therefor I am requesting that you sign and date page (4) of the agreement. The applicant has already signed. This type of document is the typical document we use to settle cases in the jurisdiction of the Hearings Officer.

Please sign and return the agreement to my attention as soon as possible.

If you have any question please call me at 1-800-624-3199 ex. 262.

Sincerely,

Adam Sussman
Protest Program Coordinator

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SEP 05 2024
Salem, OR

enclosure

cc: John Youngquist
827 SE Mosher Ave.
Roseburg, Oregon 97470

Reese Bender, ODFW
Weisha Mize, OWRD

Exhibit 21
1 of 5

From: DAVIDSON Will D * WRD
To: Dominic Carollo
Subject: RE: Notice of reconsideration of final order denying application for extension of time for Permit R-12928
Date: Monday, November 13, 2023 11:42:52 AM
Attachments: image001.png

Dominic:

If Windhurst decides to withdraw its extension application and submit a new application, the July 7, 2023 Final Order, which currently is not truly final because OWRD agreed to reconsider it in response to Windhurst's timely-filed petition for reconsideration, will be of no further force or effect and will not effect any new application.

If Windhurst wishes to withdraw its application, it should submit a written request to do so. After OWRD receives the request, OWRD will issue an order recognizing that the application has been withdrawn and is of no further force and effect. Windhurst could then submit a new application.

Please let me know if this email does not answer your question or if you have additional questions.

Best,

Will

Received by OWRD
SEP 05 2024
Salem, OR

Will Davidson
Protest Program Coordinator
Oregon Water Resources Department
725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749
Email: will.d.davidson@water.oregon.gov

From: Dominic Carollo <dcarollo@carollolegal.com>
Sent: Wednesday, November 8, 2023 1:00 PM
To: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Subject: RE: Notice of reconsideration of final order denying application for extension of time for Permit R-12928

Will:

Thanks again for your time yesterday. My client is open to the suggestion of withdrawing the application and submitting a new one, assuming that the final order on the existing application will have no force or effect or otherwise prejudice the new application. Perhaps you can get back to me about how

Exhibit 21
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OWRD would intend for this to work procedurally.

Thanks.

DOMINIC M. CAROLLO

CAROLLO LAW GROUP LLC
PO Box 2456
Roseburg, OR 97470
PH: 541-957-5900
FAX: 541-957-5923
dcarollo@carollolegal.com

Received by OWRD
SEP 05 2024
Salem, OR

From: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Sent: Wednesday, November 1, 2023 12:57 PM
To: Dominic Carollo <dcarollo@carollolegal.com>
Subject: RE: Notice of reconsideration of final order denying application for extension of time for Permit R-12928

Mr. Carollo:

Do you have time for a call sometime next week to discuss this matter? I can be available during the following periods:

- 11/6 – 1:00 pm to 3:30 pm
- 11/7 – 10:00 am to 4:00 pm
- 11/8 – 10:00 am to 5:00 pm
- 11/9 – 1:00pm to 5:00 pm

Best,

Will

Will Davidson
Protest Program Coordinator
Oregon Water Resources Department
725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749
Email: will.d.davidson@water.oregon.gov

Exhibit 21
3 of 5

From: Dominic Carollo <dcarollo@carollolegal.com>
Sent: Monday, October 30, 2023 5:39 PM
To: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Cc: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: RE: Notice of reconsideration of final order denying application for extension of time for Permit R-12928

Mr. Davidson:

Thank you for the clarification and explanation. Have a good evening.

DOMINIC M. CAROLLO

CAROLLO LAW GROUP LLC
PO Box 2456
Roseburg, OR 97470
PH: 541-957-5900
FAX: 541-957-5923
dcarollo@carollolegal.com

Received by OWRD
SEP 05 2024
Salem, OR

From: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Sent: Monday, October 30, 2023 5:32 PM
To: Dominic Carollo <dcarollo@carollolegal.com>
Cc: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: RE: Notice of reconsideration of final order denying application for extension of time for Permit R-12928

Mr. Carollo:

Thanks for your inquiry. As stated in my September 8, 2023 email, the Department has initiated reconsideration of the July 7, 2023 Final Order your clients asked the Department to reconsider. In accordance with OAR 137-004-0080(8), following reconsideration, the Department will issue a new final order, which may alter or affirm the July 7, 2023 Final Order. Now that the Department has initiated reconsideration, there is no set deadline by which the Department must issue a new final order. *See* OAR 137-004-0080. Because the Department has initiated reconsideration, at this point, there is no final order to seek review of and no need for your clients to file a petition for judicial review. After the Department completes reconsideration and issues a new final order, your clients will have 60 days to file a petition for reconsideration or a petition for judicial review of the new final

Exhibit 21
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order, should they choose to do so.

Please let me know if you have questions. I hope to reach out to you soon concerning the petition for reconsideration.

Best,

Will Davidson
Protest Program Coordinator
Oregon Water Resources Department
725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749
Email: will.d.davidson@water.oregon.gov

Received by OWRD
SEP 05 2024
Salem, OR

From: Dominic Carollo <dcarollo@carollolegal.com>
Sent: Monday, October 30, 2023 3:01 PM
To: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Cc: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: RE: Notice of reconsideration of final order denying application for extension of time for Permit R-12928

Mr. Davidson:

I'm just following up on this matter to see if OWRD has an idea of when it might issue an order on the petition for reconsideration.

Windhurst initially filed for reconsideration on July 31 and then my office filed a timely amended petition on Aug. 25. By our calculations, based on the date the original petition was filed, a petition for judicial review would be come up due around November 28. My client is hoping that wont be necessary.

Thanks.

DOMINIC M. CAROLLO

CAROLLO LAW GROUP LLC
PO Box 2456
Roseburg, OR 97470

Exhibit 21
5 of 5

PH: 541-957-5900
FAX: 541-957-5923
dcarollo@carollolegal.com

From: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Sent: Friday, September 8, 2023 1:48 PM
To: Dominic Carollo <dcarollo@carollolegal.com>
Cc: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: Notice of reconsideration of final order denying application for extension of time for Permit R-12928

Dear Mr. Carollo:

In accordance with ORS 183.482(1) and OAR 137-003-0080(5), the Oregon Water Resources Department ("Department") is reconsidering the July 7, 2023 Final Order denying the application for an extension of time for Permit R-12928, in the name of Windhurst Road Watering Corporation. The Final Order remains in effect during reconsideration. On conclusion of reconsideration, the Department will issue a new order, which may be an order affirming the existing order.

Best,

Will Davidson
Protest Program Coordinator
725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749
Email: will.d.davidson@water.oregon.gov

Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

Received by OWRD
SEP 05 2024
Salem, OR

Mailing List for Extension PFO Copies

PFO Date: July 23, 2024

Copies Mailed

Application: R-69708
Permit: R-12928

By: TM
On: 7/23/2024

Original mailed to Applicant:

Windhurst Subdistrict
c/o Bandon Cranberry Water Control District; and
PO Box 1832
Bandon, OR 97411

Copies sent to:

1. WRD - App. File R-69708/ Permit R-12928
2. Clay Jorden
3. NW Farm Credit Services, FLCA

Fee paid as specified under ORS 536.050 to receive copy:

4. None

Receiving via e-mail (10 AM Tuesday of signature date)
(DONE BY EXTENSION SPECIALIST)

5. WRD - Watermaster District 15, Susan Douthit

CASEWORKER: JDP

Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time for Permit R-12928, Water Right Application R-69708 in the name of Windhurst Subdistrict c/o Bandon Cranberry Water Control District; and NW Farm Credit Services, FLCA	) PROPOSED) FINAL) ORDER DENIAL

Permit Information

Application:	R-69708
Permit:	R-12928
Basin:	South Coast / Watermaster District 15
Date of Priority:	September 6, 1988 for 100.0 AF; June 1, 1994 for 514.0 AF
Source of Water:	Bill Creek, a tributary of Bear Creek
Storage Facilities:	23 reservoirs being Windhurst: Haga 1, 2, 3, 4; Bee Sting; Scherer 1, 2, 3, 4, 5, 6, 7, 8; Manicke 1, 2, 3, 4; Richert 1, 2, 3, 4, & 5
Purpose of Use:	to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614 acre-feet (AF) each year, being 470 AF in Windhurst, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5
Maximum Rate:	2.75 cubic feet per second (cfs) maximum combined rate between Permits R-12928, and S-53703

Please read this Proposed Final Order in its entirety.

In summary, the Department proposes to:

- Deny an extension of time to apply water to full beneficial use from October 30, 2019, to October 1, 2025.

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

ACRONYM QUICK REFERENCE
Department – Oregon Water Resources Department
PFO – Proposed Final Order
AF - acre-feet

AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(2) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefor; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides that in order to approve an application for an extension of time to complete construction or apply water to full beneficial use, the Department shall make the findings in OAR 690-315-0040(1) including a finding that there is "good cause" to approve the extension. OAR 690-315-0040(2)-(4) contain the factors that the Department must consider to make findings that support a "good cause" determination.

FINDINGS OF FACT

1. On October 10, 2002, Permit R-12928 was issued by the Department. The permit authorizes the storage of up to 614 AF of water each year, being 470 AF in Windhurst, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5 from Bill Creek, a tributary of Bear Creek, to be appropriated under Permit S-53703 for cranberry operations. The permit specified complete application of water was to be made on or before October 1, 2005.

2. On February 1, 2016, an assignment from Windhurst Road Watering Corporation, to Windhurst Subdistrict c/o Bandon Cranberry Water Control District, Northwest Farm Credit Services, FCLA, and Windhurst Road Watering Corporation was recorded in the records of the Water Resources Department for R-12928.

3. Two prior permit extensions have been granted for Permit R-12928. The most recent extension resulted in the completion dates for full application of water being extended to October 30, 2019.

4. On January 25, 2024, John Roth, chairman of Windhurst Subdistrict c/o Bandon Cranberry Water Control District; and NW Farm Credit Services, FLCA, submitted an "Application for Extension of Time" to the Department, requesting the time to apply water to full beneficial use under the terms of Permit R-12928 be extended from October 30, 2019 to October 1, 2025.

5. Notification of the Application for Extension of Time for Permit R-12928 was published in the Department's Public Notice dated February 13, 2024. Comments were received by WaterWatch of Oregon. The comments submitted are in opposition to an extension of time.

Review Criteria [OAR 690-315-0040]

In order to approve an application for an extension of time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction, pursuant to ORS 537.248, the Department must make the findings in OAR 690-315-0040(1)(a) – (d).

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

6. On January 25, 2024, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

7. According to the Application, construction of Windhurst Reservoir began in 1998.

Based on FOF 7, the Department has determined the permit holder has satisfied the condition requiring beginning of construction of the water works.

Good Cause [OAR 690-315-0040(1)(d)]

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

In order to make a finding of "good cause" to approve the extension, the Department shall consider whether the applicant has demonstrated "reasonable diligence" in previous performance under the permit. OAR 690-315-0040(2)(a). In determining "reasonable diligence", the Department shall consider, but is not limited to, the following factors: a) The amount of construction completed within the time allowed in the permit or previous extension; b) The amount of beneficial use made of the water during the permit or previous extension time limits; c) Water right holder conformance with the permit or previous extension conditions; and d) Financial investments made toward developing the beneficial use of water.

Amount of Construction [OAR 690-315-0040(3)(a)]
The amount of construction completed within the time allowed in the permit and previous extensions.[1]

8. Construction of the water system began prior to the permit issuance.

9. According to previous Applications for Extension of Time, work was accomplished during the original development timeline provided in the permit, and previous extension periods. The Application for Extension of Time, submitted September 26, 2014, identified that the full volume of 614.0 AF of water had been stored.

10. According to the current Application for Extension of Time, work accomplished during the period between October 1, 2014, and October 30, 2019, included the installation of staff gages, installed new water meters, and dug an extension to a previously developed reservoir.

11. Since October 30, 2019, the Application identifies construction of a replacement Scherer Reservoir (S-1), and associated water lines. S-1 Reservoir is not an authorized reservoir under Permit R-12928, as it is constructed at a location that is not authorized by the permit. The most recent Application also identifies replacement of a pump on Bill Creek.

12. Based on previous Applications for Extension of Time, it is unclear what work was accomplished when as the information provided historically has not been accurate.

Compliance with Conditions [OAR 690-315-0040(3)(c)]
The water right permit holder's conformance with the permit and previous extension conditions.

13. The Department has considered the permit holder's compliance with conditions, and did not identify any concerns.

Based on FOF 13, the Department has determined that the permit holder has demonstrated compliance with permit conditions.

Beneficial Use of Water [OAR 690-315-0040(3)(b)]
The amount of beneficial use made of the water during the permit or previous extension.

14. According to the Application for Extension of Time, submitted September 26, 2014, the full authorized volume of 614.0 AF of water had been stored.

15. According to the current Application, a maximum volume of 564.15 AF of water has been stored from the Bill Creek, a tributary of Bear Creek, in 23 separate reservoirs.[2]

---

[1] **"Actual Construction"** is defined in OAR 690-315-0020(3)(d)(A)and(B) as physical work performed toward completion of the water system which demonstrates the water right permit holder's good faith and intention to complete the project with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land or planting crops.

[2] Individual storage volumes provided in a document submitted with the Application for Extension of

The Department has determined that beneficial use of water has likely been demonstrated by October 30, 2019.

Financial Investments to appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]

16. The Application identifies an investment of approximately $1,934,467, however this included costs associated with replacement of an existing pump, which is considered maintenance, the costs associated with hiring a consultant to help determine the volume of water stored and is not considered work towards the development of the beneficial use, and the costs to construct S-1 Reservoir, which is not an authorized reservoir under this permit. After deducting these costs, the permit holder has invested approximately $1,838,967. The Application identifies an additional $91,000 investment is needed for the completion of this project, however these costs estimates include the cost to replace previously installed staff gages, and deepening S-1 Reservoir, which is not an authorized reservoir under this permit.

The Department has determined an investment has been made in the development of the beneficial use under this permit.

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

The record related to this permit establishes that though work has been accomplished under the permit, the previous assertions by the permit holder that the full volume of water had been stored by 2014, including the Application for Extension of Time submitted on September 13, 2021, which was subsequently withdrawn after the Department issued a Final Order to deny the extension. The permit holder continued to develop additional storage after the Department denied an extension because the Application identified that the full volume of water had been stored. Considering the full record pertaining to Permit R-12928, the Department has determined the applicant has not demonstrated reasonable diligence in previous performance under Permit R-12928.

The Market and Present Demands for Water [OAR 690-315-0040(4)(a-f)]

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

- *(a)The amount of water available to satisfy other affected water rights and scenic waterway flows;*
- *(b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);*

Time.

- *(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;*
- *(d) Economic investment in the project to date;*
- *(e) Other economic interests dependent on completion of the project; and*
- *(f) Other factors relevant to the determination of the market and present demands for water and power.*

OAR 690-315-0040(4)(a)
The amount of water available to satisfy other affected water rights and scenic waterway flows.

17. A review of the amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-12928; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an Application for a new water right is submitted.

18. Current Water Availability Analysis for the Bear Creek, (Tributary to Coquille River) at the mouth (watershed ID 70230) show that no water is available during the months of August, September and October at the 50% exceedance level.

OAR 690-315-0040(4)(b)
Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).

19. The points of diversion are located on Bill Creek, a tributary of Bear Creek, and is not located within an ORS 538 Withdrawn Area.

20. Bill Creek, a tributary of Bear Creek is not located within or above a state or federal scenic waterway.

21. The point of diversion is in a location listed by the Department of Environmental Quality as a water quality limited stream. Bear Creek, Watershed Unit (1st through 4th order streams) listed under Water Quality Limited for BioCriteria, Dissolved Oxygen, and Temperature.

OAR 690-315-0040(4)(c)
The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.

22. Bill Creek, a tributary of Bear Creek is located within an area ranked "highest" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife.

OAR 690-315-0040(4)(d)
Economic interests dependent on completion of the project.

23. An approximate total of $1,838,967 has been invested in the project.

OAR 690-315-0040(4)(e)
Other economic interests dependent on completion of the project.

24. Individual families utilize water from this permit for their cranberry operations.

OAR 690-315-0040(4)(f)
Other factors relevant to the determination of the market and present demand for water and power.

25. No other factors relevant to the determination of the market and present demand for water and power have been identified.

Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

26. The use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

27. The Application identifies a request from Oregon Department of Fish and Wildlife to improve the point of diversion on Bill Creek as an additional governmental requirement which delayed the development under the permit.

The Department has determined that this request from Oregon Department of Fish and Wildlife is not an additional governmental requirement which prevented the complete development because; 1) the point of diversion on Bill Creek was previously developed with different equipment, and 2) there is no evidence provided that the improvement is required.

Unforeseen Events [OAR 690-315-0040(2)(h)]

28. The Application identifies the previous permit holders of record had all passed away in previous years.

29.

Denial of an Extension Would Result in Undue Hardship [OAR 690-315-0040(2)(i)]

30. The Application asserts a denial would result in an undue hardship.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

31. The Application and the record does not provide evidence of good faith of the appropriator.

The Department has determined that the record and the Application do not provide evidence of good faith of the appropriator. The Department has determined that previous Applications for Extension of Time submitted to the Department asserted that full development of the permit had been completed, and that the only work left to be accomplished was the installation of the required staff plates. It was based on these previous Applications for Extension of Time that the Department made a determination of good faith and reasonable diligence of the appropriator, enough to provide the previous extension of time to October 30, 2019. If accurate information was submitted on the Application for Extension of Time submitted September 26, 2014, the Department may not have approved the Extension of Time to October 30, 2019.

Duration of Extension [OAR 690-315-0040(1)(c)]

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

32. As of January 25, 2024, the permit holder states the remaining work to be completed consists of completing expanding S-1 Reservoir, which is not an authorized reservoir under the permit, lining of Bee Sting Reservoir, and the installation of replacement staff gages.

The Department has determined that the permit holder has not demonstrated reasonable diligence or good faith in the development of the authorized use under the permit, and therefore an extension of time is not allowable.

Good Cause *[OAR 690-315-0040(1)(d)]*

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has not shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

CONCLUSIONS OF LAW

1. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).

2. The application established that there has not been reasonable diligence or good faith of the permit holder. The permit holder has not shown that good cause exists for an

extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Deny the time to apply water to beneficial use under Permit R-12928 from October 30,2019 to October 1, 2025.

DATED: July 23, 2024

Dwight French, Administrator
Water Right Services Division

If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.

Protests

Pursuant to OAR 690-315-0060(1), the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. Protests must be received by the Water Resources Department no later than **September 6, 2024,** at this address: Oregon Water Resources Department, Water Right Services Division, 725 Summer St NE, Suite A, Salem, OR 97301-1266. Protests may not be submitted by electronic mail. OAR 690-002-0025(3).

Protests must be in writing and include all of the following:

- The name, address, and telephone number of the protestant
- A detailed description of the protestant's interest in the proposed final order, and, if the protestant claims to represent the public interest, a precise statement of the public interest represented
- A detailed description of how the action proposed in the proposed final order would impair or be detrimental to the protestant's interest
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency
- If the applicant protests, a statement of whether a hearing is requested
- Citation of legal authority supporting the protestant, if known
- Proof of service of the protest on the water right permit holder, if protestant is other than the water right permit holder, and
- If you are the applicant, the protest fee of $480 required by ORS 536.050; and

- If you are not the applicant, the protest fee of $950 required by ORS 536.050.

Within 60 days after the close of the period for requesting a contested case hearing, the Director shall either issue a final order on the extension request, or schedule a contested case hearing if a protest has been submitted, and, upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or, the applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests. The hearing will be conducted as provided in Oregon Revised Statutes (ORS) Chapter 183, and Oregon Administrative Rules (OAR) 137-003-0501 to 137-003-0700.

If the applicant does not request a hearing within 30 days after the close of the protest period, or if the request for a hearing is withdrawn, or the Department or the administrative law judge is notified that the protestant will not appear, or the protestant fails to appear, at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

A party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-8260, or the nearest United States Armed Forces Legal Assistance Office through http://legalassistance.law.af.mil.

- If you have any questions about statements contained in this document, please contact Jeffrey D. Pierceall at (503) 979-3213.
- If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Will Davidson at 503-507-2749.
- If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
- Address any correspondence to : Water Right Services Division
  725 Summer St NE, Suite A
  Fax: 503-986-0901 Salem, OR 97301-1266

Jordan Engineering
Structural-Civil-Geotech
460 Jordan Lane
Roseburg, OR 97471
541-673-1931

Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

Request For Reconsideration:
R-12928

August 10, 2023

Sir:
It has come to my attention that the client, Mr. Roth has inadvertently on 08/07/23 mailed the Request For Reconsideration letter without signature and/or here in the attached Google map as additional evidence.

Please accept this inclosed signed letter with attachment in place of the previous mailing.

Respectfully,

Clay Jordan, P.E., S.E., GeoTech, CWRE

7-31-23 Reconsideration R-12928 CL.wpd
Email: 1. Mr. Norm Daft
2. Mr. John Roth

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Bandon Cranberry Water Control District
PO Box 1832
Bandon, OR 97411

REQUEST FOR RECONSIDERATION – DENIAL OF EXTENSION APPLICATION FOR ~~S~~R-12928 K.C.

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July 31, 2023

The requested extension of permit ~~S~~R-12928 K.C. was denied on July 7, 2023.

1. Extension of R-12928 is necessary to complete permit S-53703 which has been extended to 10/1/2024. **Use of stored water is crucial to completion of permit S-53703.** Newly constructed bogs will need use of water from a reservoir (about 5 acre-feet) completed aer the last completion date. A previous owner, before the current owner, started the newly completed reservoir aer a previous owner listed on the permit (Scherer) died. Please see attached 10/29/2019 Google aerial photo that shows partial construction of reservoir. This photo was taken a day prior to the current completion date.

2. Partial construction of the reservoir shown on the attached aerial photo was inadvertently not included in the extension application.

3. **Bogs have recently been constructed under permit S-53703 that are dependent on permit R-12928 being extended.** Permit S-53703 has been extended unl October 1, 2024.

4. The current completion date for R-12928 is October 30, 2019.

5. Two major land owners have died prior to this extension application (Haga 2016 and Scherer 2014). These land owners were managing the Special District. There are new managers and a new owner of the Scherer property as of 3/3/2020, who has been working toward compleon of permits R-12928 and S-53703. The deaths of the two major cranberry farmers significantly delayed progress toward completion of both permits.

6. All water for all reservoirs under permit R-12928 comes from a single pump diversion on Bill Creek. No diversion changes (other than a slightly different location for a new fish screen) are needed. No increase in rate of diversion is needed.

7. The Extension Application indicated, in error, that the total storage listed in the permit had been stored. There had not been a survey of storage volume to document the total water stored.

8. Water Resources staff requested the applicant's consultant do a field survey of all reservoirs to determine the total acre-feet stored to date to see whether the full amount of water had been stored or not. It seemed as though the stated storage of 614 AF was the reason as to be why it was proposed the extension be denied. It appeared there would be no reason for an extension if 614 acre-feet had been stored and all conditions met. The consultant (Jordan Engineering) found that approximately 553 acre-feet of the 614 acre-feet allowed has been stored and used from 19 of 23 reservoirs allowed. Several other reservoirs were constructed but were not viable.

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9. This is a mul-million dollar project that includes multiple land owners and NW Farm Credit Services.

10. When the permit applications were submitted (1988), the location and size of proposed reservoirs and cranberry bogs was tentative as brush and trees had to be removed to see if sites were viable. Also, at the time of submission of the permit application, it was understood that deviations, as long as they didn't exceed the permit limits, would be taken care of at proof (Claim of Beneficial Use).

11. The application for permit R-12928 was submitted in 1988. The use of water permit, S-53703 was also submitted in 1988. Permit R-12928 and S-53703 were not issued unl 10/10/2000.

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12. Cranberry farming is a significant part of the economy of the area.

Proposed Final Order (PFO) Denying the Extension

1. Findings of Fact 14 of the PFO found reasonable diligence has been demonstrated.

2. Findings of Fact 15 found no issue with the amount of water available for other water rights or scenic waterway flows.

3. Findings of Fact 29 indicated the full amount of water was stored, so no undue hardship was found. However, evidence was submitted, at the Department's request, the full amount of water has not been stored. As stated in item 1, page one above, completion of a reservoir within the limits of permit R-12928 is necessary to complete permit S-53703 which has been extended.

4. Finding of Fact (FOF) 30 states "Based on Findings of Fact 7, 14 and 21, above, the Department finds that the Applicant has demonstrated good faith." FOF 7 indicates mely beginning of construction occurred. FOF 14 found reasonable diligence. FOF 21 found that about $1.7 million had been invested.

In summary, it appeared that the only reason for denial of the extension application for permit R-12928 is that the application indicated the full amount of permied acre-feet of water was stored. It was determined that this was only a guess so the Department staff requested that the applicant's consultant conduct a field survey to determine total storage to date. That information was submitted to the Department and showed the full volume of water has not been stored.

There are issues with the Final Order (FO). The FO indicates that permit R-12928 was issued on 10/10/2002. It was actually issued on 10/10/2000.

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Also, the FO is not congruent with the PFO in that the PFO states that "the Department has determined the applicant has demonstrated reasonable diligence in previous performance under Permit R-12928. The FO states: "ADDITIONAL FINDINGS OF FACT
1. On September 13, 2022, agents for the permit holder submitted additional information esmang the total volume stored in the reservoirs. The estimated volume of storage developed is approximately 553.0 AF. Based on the additional finding of fact above, the Department has determined that diligence in the development of the water use authorized under this permit has not been demonstrated, and the Application does not provide good cause to approve an extension of me."

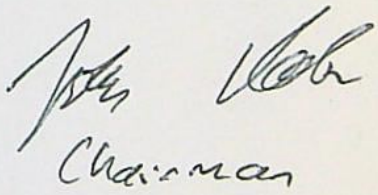
The Extension Application erroneously indicated the full amount of water had been stored. The Department seems to have indicated this was the reason for denying the extension in the PFO. The Department requested a field survey of the total storage to determine if it was equal to or less than what was permitted. The applicant was under the understanding that if less than the full amount of water had been stored then the Extension Application could move forward toward approval.

It seems the Department is now stang that since the full amount of storage has not occurred, that erases reasonable diligence. Please refer to item 1 page one – partial construction of a reservoir inadvertently not included in extension application.

The question arises as to why Department staff requested a field survey of total storage if the extension application was going to be denied either way.

Please notify in addition to the Windhurst Subdistrict c/o Bandon Cranberry Water Control District, the following persons of the Department's intention regarding this request for reconsideration of the denial of the extension application for permit R- 12928:

John Roth
Phone 541-297-6292
P.O. Box 362
Bandon, OR 97411



Clay Jordan, CWRE
Phone 541-430-6926
460 Jordan Lane
Roseburg, OR 97471

Respectfully submitted.

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REQUEST FOR RECONSIDERATION – DENIAL OF EXTENSION APPLICATION FOR S-12928

July 31, 2023

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John Roth
Phone 541-297-6292
P.O. Box 362
Bandon, OR 97411

Clay Jordan, CWRE
Phone 541-430-6926
460 Jordan Lane
Roseburg, OR 97471

Respectfully submitted.

Application: R-69708 Permit: R-12928

Public Notice Route Slip ... New Application Extension of Time per Division 315 Rules... (Extensions received on July 1, 2001 or after)

Applicant/Permit Holder(s) Windhurst Subdistrict / c/o Bandon WCD.
PO Box 1832
Bandon, OR 97411

Proposed Completion Date: 10-1-2025

☐ WRIG...Money Receipted on: 1-25-2024

☐ Extension Specialist ...

- ☐ Added to tracking spreadsheet

After fee is receipted and app is added to spreadsheet, route to...

☑ Kyler or Tonya...

- ☑ Recent Assignment (Check WRIS for Update)
- ☑ Publish on Public Notice (initial 30-day comment): Date of notice FEB 13 2024
- ☑ Update WRIS Database
- ☑ In the "PNotice Date" field... Enter the date the Extension Application was published on the Public Notice.
- ☑ In the "Ext Filed" field... Enter the date the Extension Application was received.

☐ Yes or ☐ No: Return file to Extension Specialist after PN FEB 13 2024

NOTES:

Oregon
Tina Kotek, Governor

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

February 13, 2024

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #: R-69708 (Permit R-12928).** Your application will be reviewed in the future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Jeffrey Pierceall at (503) 979-3213. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's website at: **www.wrd.state.or.us**.

Windhurst Subdistrict
c/o
Bandon Cranberry Water Control Dist.

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JAN 25 2024
OWRD

January 10, 2024

Oregon Water Resources Department
Attn: Extensions
725 Summer Street, NE, Suite A
Salem, OR 97301-1266

Re: Permit R-12928

Extension Section:

We are submitting a new Extension Application for the above-referenced permit.

Per our understanding of conversations between the Protest Program Coordinator, Mr. Will Davidson and our attorney, Dominic M. Carollo, we request the withdrawal of the last Extension Application submitted on 09/13/21.

We also request a refund of fees paid as discussed previously with the Department.

A new application packet along with current fees is enclosed.

Respectfully Submitted,

John Roth

STATE OF OREGON

WATER RESOURCES DEPARTMENT

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # 142292

INVOICE # _____

RECEIVED FROM: Brenton Cranberry Water

BY: _____

APPLICATION	K-69708
PERMIT	
TRANSFER	

CASH: ☐ CHECK:# ☒ 1869 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D $ 780.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES		$
_____	OTHER:	(IDENTIFY) _____	$

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

46111

MISCELLANEOUS

0407	COPY & TAPE FEES	$
0410	RESEARCH FEES	$
0408	MISC REVENUE: (IDENTIFY) _____	$
TC162	DEPOSIT LIAB. (IDENTIFY) _____	$
0240	EXTENSION OF TIME	$ 780.00

WATER RIGHTS:

		EXAM FEE		RECORD FEE
0201	SURFACE WATER	$	0202	$
0203	GROUND WATER	$	0204	$
0205	TRANSFER	$		

WELL CONSTRUCTION

		EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	$	0219	$
	LANDOWNER'S PERMIT		0220	$

_____ OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	$	CARD#	
0210	MONITORING WELLS	$	CARD#	

_____ OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY

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

____ TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ $

RECEIPT: 142292 DATED: 1-25-24 BY: M Mills

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

Application for

Extension of Time for a Water Right Permit (NON-Municipal/ NON-Quasi-Municipal)

OREGON WATER RESOURCES DEPARTMENT
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

Criteria for a Permit Extension of Time

The Department can accept requests for an extension of time on permits to (1) complete construction, and/or to (2) apply water to beneficial use.

In order to approve a permitextension request the Department must be able to find:

1) **Construction has begun:**

   A. **For Groundwater Permits**
   Construction of the well(s), *authorized by the permit*, began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

   B. **For Surface Water or Reservoir Permits**
   Construction of the water system began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

The Department will also confirm that:

2) If required, a fish screen, fish passage or fish by-pass device was installed before or prior to diversion of any water. An exception to the need to confirm installation prior to diversion of any water would be a waiver submitted to the Department from ODFW stating that a fish screen, fish passage or fish by-pass device was not required, provided your permit allows for a waiver.

If you have questions, please call the Department at (503)-986-0900 and ask to speak with a permit extension specialist.

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TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT
A separate extension application must be submitted for <u>each</u> permit as per OAR 690-315-0020(2).

I, Windhurst Subdistrict c/o Bandon Cranberry Water Control Dist. & NW Farm Credit Services, FLCA
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

P.O. Box 1832	Bandon	OR	97411
ADDRESS	CITY	STATE	ZIP

541-297-6292
PHONE

jkcranberries@yahoo.com
E-MAIL ADDRESS

the permit holder of: Application Number R-69708

Permit Number R-12928
[OAR 690-315-0020(3)(b)]

do hereby request that the date by which the water development will be completed and water put to full beneficial use, which time now expires on Month:10 Day: 30 Year: 2019, be extended to October 1, 2025, *[OAR 690-315-0020(3)(i)]*

I am the permit holder, and may apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

John Roth — 01-20-24 C.J.
Signature **Date**

John Roth — Chairman
Printed Name **Title**

The agent below is authorized to represent the applicant in all matters relating to THIS application. _____ **Permit Holder Initials**

_____ _____
Authorized Agent (Print Agent Name) **Agent contact**

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Before submitting your Application for Extension of Time, make sure the following items are included:

- This completed Application for Extension of Time.
- Statutory fee of $780
- Signature page (Second page of this Application for Extension of Time).
- Letter granting an agent authority to act on behalf of the permit holder (*if applicable*)
- All supporting documentation and/orevidence referenced in the Application for Extension of Time. (ODFW Fish screen approval or waiver, contract for stored water, etc)

MAIL COMPLETED APPLICATION
along with the Supporting documents and/ or evidence and correct fee to:

Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

GENERAL TIPS:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form**. The correct form is APPLICATION FOR EXTENSION OF TIME FOR MUNICIPAL AND QUASI-MUNICIPAL WATER USE PERMITS.

- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.

- A separate APPLICATION FOR EXTENSION OF TIME must be submitted for each permit. OAR 690-315-0020(2).

- Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at the State of Oregon, Secretary of State Website. To be granted an extension of time, the Department must make four specific findings; 1) the application is complete, 2) construction of the water system began within the time specified in the permit and applicable statute, 3) there is good cause, and 4) the project can be completed within the time being requested. If the Department cannot make all four findings, the extension of time cannot be approved.

- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 690-315-0020(3)(n).

- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights Services Division.

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- An Application for an Extension of Time will be reviewed for completeness. A response is required for each item contained in the application. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- **The water right permit.** If needed, a copy of the water right permit can be downloaded from the Department's Website,or, a copy of the permit may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).

- **Previous Applications and Orders.** Copies of previous applications and orders that may inform the completion of the Application for Extension of Time, if available, may be downloaded from the Department's Website. **NOTE: If the document requested is not available on the Department's website, you may be required to submit a Public Record Request.**

- **Documentation which demonstrates compliance with permit conditions** (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Questions to complete this application for an Extension of Time
Please see the instruction sheet to help you answer these items.

1. **Beginning Construction within required deadlines.** OAR 690-315-0020(3)(d)

For Groundwater Permits

Has construction of the point of appropriation (well) authorized under this permit begun? ☐ **Yes** ☐ **No**

Date construction began Month: Day: Year:

Details of construction and attach documentation:

For Surface/Reservoir Permit

Has construction of the water system begun? ☒ **Yes** ☐ **No**

Date construction began Month: Day: Year: 1998

Details of construction and attach documentation: begin construction of Windhurst Reservoir

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OAR 690-315-0020(3)(A)(e)(A)

2a. Permits typically contain standard or special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column are contained within it. Using the extra row labeled "other" to specify any other additional conditions included in the permit, orspecified in a final order approving a permit amendment or prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check "Yes" if you have completed or met the permit condition.Check "No" if the condition is not yet satisfied. In the 4thcolumn, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation. Note: a pump test condition does not need to be addressed here however; you must submit the results of the test to the Department for approval prior to certification.

CHART-A

Permit Conditions in this Permit		Have Completed or Met?	Date satisfied/ or will be satisfied
Checkbox	Ground water Check those included on this permit		
☐	Installation of a meter/totalizing flow meter	☐ Yes ☐ No	
☐	Submittal of annual water usage report	☐ Yes ☐ No	
☐	Submittal of static water level measurements in the month required	☐ Yes ☐ No	
☐		☐ Yes ☐ No	
☐	Special well construction standards	☐ Yes ☐ No	
☐	Submittal of a monitoring plan	☐ Yes ☐ No	
☐	Well ID tag assigned and installed:	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
	Surface Water or Reservoir		
☒	Installation of a meter/ totalizing flow meter	☒ Yes ☐ No	2001
☒	Submittal of annual water use report	☒ Yes ☐ No	2001
☒	Installation of a fish screen	☒ Yes ☐ No	2002
☐	Installation of a fish by-pass device	☐ Yes ☒ No	NA
☐	Installation of a fish passage	☐ Yes ☒ No	NA
☒	Installation of an outlet gate/pipe/ conduit	☒ Yes ☐ No	1999
☒	Submittal of a letter from ODFW that fish screen, fish by-pass device, and or fish passage is not required	☒ Yes ☐ No	2002
☒	Submit as-built plans and specification	☒ Yes ☐ No	
☒	Submittal of a letter from an engineer prior to storage	☒ Yes ☐ No	2002
☒	Other (Specify): Cycle outlet each year	☒ Yes ☐ No	2002 on
☒	Other (Specify): Staff gages installed in all constructed reservoirs	☒ Yes ☐ No	2015 some need replacement
☒	Other (Specify): Weir and staff gage installed in Bill Cr. Staff gage installed on Bear Creek.	☒ Yes ☐ No	1998-2000

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2b. If you have identified that you have NOT complied with Permit conditions, explain the reasons why and indicate a date certain, when you will be in compliance.

some staff gagers need to be replaced and staff gage installed on reservoir constructed after last completion date. Will be done by September 2024

[OAR 690-315-0020(3)(e)]

3. Provide evidence of physical work made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B); and if applicable, within the time period of the most recent extension granted (CHART-C).CHART-B (below) must be completed for all Application for Extension of Time requests. *Use chronological order.* Itemize each work item, and do not combine multiple work actions in one area.(Planning, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land, or planting crops***is not considered work in the development of the water system. Work accomplished under other water rights may not be considered work under this permit.***)

CHART-B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED *List any work done before the permit was issued – eg. well drilled.*	COST*
	See Attachment A	$1,714,500.00
DATE	**WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER** *List work/actions done during the permitted time period.*	**COST***
10/10/2000	**Date the permit was signed** - find date above signature on last page of permit.	
2000	Staff Gage installed on Bear Cr.	$1,000.00
2001	Install pump, electrical and valves for Windhurst Reservoir	$12,050.00
2001	Weir and Staff Gage installed on Bill Creek. Totalizing meter installed at Bill Cr. POD	$3,500.00
2001	Partial excavation of Haga Reservoir 1	$4,000.00
2002	On site geologist during filling of Windhurst Reservoir	$7,500.00
2002	Fish Screen installed on Bill Creek	$2,617.00
2003	Complete Haga reservoir 1 and construct reservoir 5 (estimate)	$8,000.00
2004	Partial excavation of Scherer Reservoir 2	$4,000.00
10/1/2005	**Date the permit specified complete application of water to the use shall be made-** all permits contain this date.	
DATE	**WORK ACCOMPLISHED AFTER the date the permit specified complete application of water and prior to any previous extension order** *COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR AN EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.*	**COST***
	Total Cost for Chart-B	**$1,744,667.00**

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* If exact cost is not known, you must provide your best estimate.

4. If this is <u>not</u> your 1st Application for Extension of Time request, fill out CHART-C below in addition to CHART-B above. ***Use chronological order.***

CHART-C

DATE	WORK ACCOMPLISHED <u>DURING</u> THE LAST EXTENSION PERIOD *List all work done during the last authorized extension period.*	COST*
10/1/2014	**"Extended From" date for complete application of water used in the most recent Final Order on Extension of Time.**	
2014	Final Engineering certification completed	$7,500.00
2014-2019	Manicke – Extension to 50% of ponds to finish	$10,000.00
2014-2019	Scherer-install staff gages after 2014 harvest, enlarge reservoirs	$11,000.00
2014-2019	Haga-install staff gages after 2014 harvest, Finish on Bee Sting Reservoir	$21,000.00
2015	Install new water meters	$3,600.00
2017	Run water line to Bee Sting Reservoir	$6,500.00
2018	Dig Manicke Reservoir extension of #1	$7,800.00
10/30/2019	**"Extended To" date for complete application of water resulting from the most recent Final Order on Extension of Time.**	
DATE	**WORK ACCOMPLISHED <u>AFTER</u> THE LAST EXTENSION PERIOD EXPIRED** *List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.*	**COST***
1/20/2020	Replace Bill Creek pump	$5,000.00
2/5/2020	Install pump protection	$3,900.00
7/19/2022	Hire CWRE to assist in determining total storage (at request of WRD)	$4,000.00
2022	Construction of Scherer replacement reservoir (S-1)	$30,000.00
2022	Water line to new reservoir(S-1) plus labor to install and water meter	$16,500.00
2023	Purchase liner for Bee Sting Reservoir	$15,000.00
2023	Pump station and power to it S-1 reservoir	$40,000.00
	Total Cost of Chart-C	**$197,800**

* If exact cost is not known, you must provide your best estimate.[OAR 690-315-0020(3)(f)]

5. Cost of project to date: <u>$1,934,467.00</u>

(The total combined cost from CHART-B and CHART-C) [OAR 690-315-0020(f)]

[OAR 690-315-0020(3)(e)(B)]

Provide evidence of the maximum rate (or duty, if applicable) of <u>water diverted for beneficial use</u> under this permit <u>made to date</u>.

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TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

6. **For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):**

TIP: Report the rate in the same units of measurement as specified in the permit.

Maximum rate used to date = _____cfs (cubic feet per second) *or,*

Maximum rate used to date = _____gpm (gallons per minute) *or,*

Maximum volume of stored water used to date = _____AF or,

Maximum volume stored annually to date = 564.15 (estimated) **AF**

7. **For Ground Water Permit Extensions (e.g. G-XXXX):**

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment?	Maximum instantaneous rate used to date from this well - - under thispermit only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total instantaneous rate from all wells utilized under this permit								

8. **Has a Permit Amendment Application been filed? Yes☐ No☒**
If yes, identify Transfer No. T-_____

[OAR 690-315-0020(3)(e)(C)]

9. **For Irrigation and Nursery Use Permits Extensions**

Provide the total number of acres irrigated to date under this permit.

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a) Total acres irrigated to date:_____

b) List by year, the number of acres irrigated each year since permit issuance.

Year	Acres	Year	Acres	Year	Acres

c) Provide a copy of the application map identifying the acres irrigated.

d) Please specify the number of acres irrigated by each Point of Diversion/Point of Appropriation (POD/POA).

(POD/POA)#_____ Acres_____ (POD/POA) #_____ Acres_____

(POD/POA) #_____ Acres_____ (POD/POA) #_____ Acres_____

[OAR 690-315-0020(3)(i)(j)]

10. In the chart below provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2025	Install new point of diversion with fish screen on Bill Cr. (by ODF&W)	$70,000.00
2024	Install replacement staff gages	$3,000.00
2024	Line Bee Sting Reservoir and fill it (labor and equipment)	$6,000.00
2024-5	Deepen reservoir S-1	$12,000.00
Year: 2025	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
	Total Cost	$91,000.00

[OAR 690-315-0020(3)(g)]

11. Estimated remaining cost to complete the project: $91,000.00

(The total cost from CHART-E)

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[OAR 690-315-0020(3)(j)]

12. Provide a summary of your plan to complete construction, meeting all permit conditions and apply the water to beneficial use:*(List all tasks or steps needed to complete the project, the date when each task will be completed, and the cost associated with each task; attach additional pages if necessary.)*Staff gages will be replaced as necessary in 2024. Bee Sting Reservoir to be lined by end of 2024 and deepen reservoir S-1 and install staff gage in reservoir S-1.

See Chart E for costs

[OAR 690-315-0020(3)(k)]

13. Justify the time requested to complete the project and/or apply the water to full beneficial use.*(Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.)*

The project is taking longer to complete than the permit allowed due to the size of acreage and owners involved. Ownership of properties in the permit have changed hands. Increase in expenses and fluctuating costs of cranberries have made the project more difficult to complete. Cranberry prices have risen recently which will help move the project forward.

This permit is tied to permit S-53703 which has been extended to October 2024. Bogs are still being developed some of which are dependent on a reservoir constructed after the last completion date.

See also #16 below

[OAR 690-315--0020(3)(l)

14a. Will a denial of the extension result in undue hardship? *(Describe the hardship and the effects.)*__.)There are multiple family farms covered under this permit and all of them use it. The total investment to date is approximately $2,000,000. These families depend on the income from farming cranberries.

The use of water permit (S-53703) has been extended to 10/1/2024. Full use of water under the use permit is dependent on this extension application being approved.

14b. Are there any other reasonable alternatives that exist for meeting your water use needs? *(Explain in detail, consider other potential sources of water, and describe their feasibility)*___)None There are no other potential sources of water which are feasible for the volume of water that is necessary__

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[OAR 690-315-0020(3)(h)

15. Was the delay in the timely completion of this water development project and/or timely application of water to full beneficial use caused by any additional government requirements, other than the conditions contained within the permit, which significantly delayed the completion and perfection of this right? *(Explain in detail, including how much time did this delay the project; list dates.)*Yes. ODF&W has requested improvement to diversion on Bill Creek. We have entered into a cost share project to improve the diversion which will move it slightly. Project scheduled to be completed in 2022, however has yet to be completed. This has delayed completion of the COBU.

[OAR 690-315-0020(3)(h)

16. Describe any unforeseen events which contributed to the delay of completion of this project that you had no control over. *(Explain in detail what the unforeseen events were (i.e. health issues, natural disaster) and how much time was spent addressing the unforeseen events. Delays caused by business decisions are not considered unforeseen events)*

Original property owners under this permit, W. Scherer, F Richert and R. Haga have all passed away in the last few years. Ownership of Scherer property has changed hands several times since and has now been purchased by Bill Creek LLC. Bill Creek LLC has been working diligently to complete this permit as well as the use permit, S-53703.

[OAR 690-315-0020(3)(h)]

17. Describe an additional reasons why the construction was not completed, and/or water was not beneficially used within permit time limits. *(Provide supporting information for the reason(s) that best fits your circumstances.)*

Higher cost of expansion and development coupled with lower cranberry prices

[OAR 690-315-0020(3)(m)(n)]

18. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.

This is a very complex and expensive project planned to be developed over a longer period of time than allowed. There are multiple owners covered by this permit with varying timelines for completion. This permit is directly tied to the use permit S-53703 so it is difficult to separate some of the costs. The area was covered by brush when the permit application was submitted and as construction began it was necessary to alter some reservoir sizes and actual location as well as some of the bog locations.

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[OAR 690-315-0040(2)(f)]

19. Will the income or use of the water project provide a fair and reasonable return on your investment? *(Explain in detail)* Yes. Anytime a farmer invests time, income and energy into developing their land there is an expected return on that investment. Cranberry farming is and has been a way of life in this area and supports the families who run the farms.

[OAR 690-315-0040(4)(d)]

20. Describe in detail if there are other economic interest, beyond those of the permit holder, which are dependent upon the completion of this project. *(Who will be effected and how?)* The individual families that farm cranberries under this permit.
The farmers and families in this area support the surrounding communities. We have accounts with and spend money at the local businesses – fuel companies, equipment suppliers, fabricators, restaurants, etc. all have the potential for impact.

Attach permit, and documentation to the application

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01-10-24
01-20-24

WINDHURST SUBDISTRICT
C/O BANDON CRANBERRY WATER CONTROL DISTRICT
TOWNSHIP 28S & 29S RANGE 14W W.M.
COOS COUNTY OREGON

Map to accompany Extension Application
APPLICATION R-69708 PERMIT R-12928

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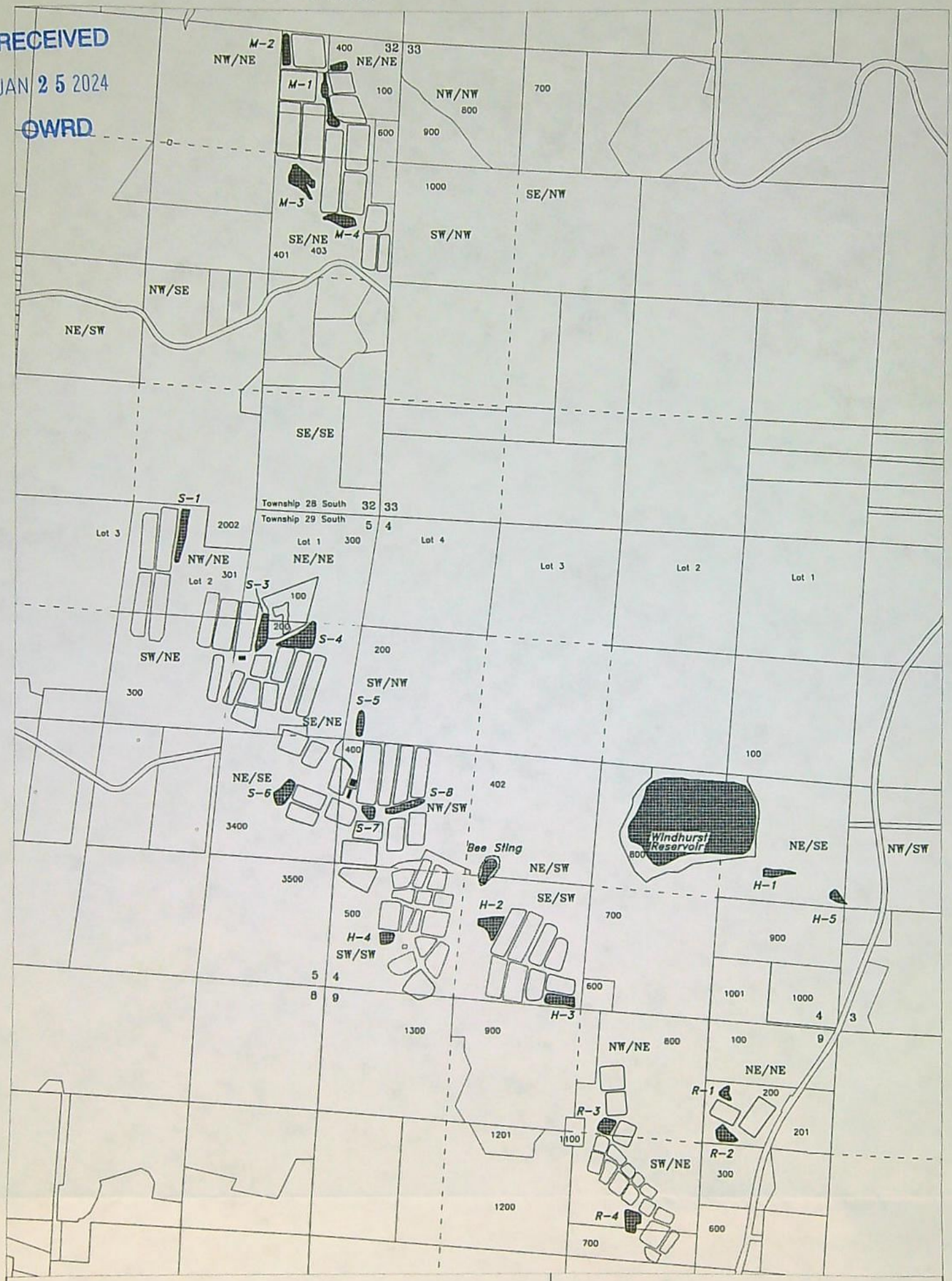

Current Reservoirs -22
(Permitted Reservoirs -23)

WINDHURST SUBDISTRICT

Signature: [signature] Date: 01-20-24 C.J.

Printed Name: John Rohr Title: Chairman

NORTH

Scale
1" = 1320'

This map is not intended to provide legal dimensions or locations of property ownership lines

Prepared By

JORDAN ENGINEERING
460 JORDAN LANE
ROSEBURG, OREGON 97471
(541) 673-1931

12/15/2023 - n.e.d.

STORAGE IN RESERVOIRS – WINDHURST 12/6/2023

Total storage was calculated using scaled Google aerial photos, information and reported depths throughout reservoirs from water users and a field inspection on July 19, 2022. Depth from reported depths to the bank were determined using a one to one slope. Depths calculated to outlet. Reservoirs S-1, H-1 and H-5 not observed during field inspection.

WATER USER	RES#	AVE DEPTH	SIZE	ACRE-FEET	PERMIT	
John Roth (Scherer)	S-1	6 ft. (estimated)	0.95 ac.	5.70 AF	1.4 AF	
	S-2			not used	1.4 AF	
	S-3	5.2 ft.	0.88 ac.	4.60 AF	5.6 AF	
	S-4	7.5 ft.	1.38 ac.	10.35 AF	7.0 AF	7
	S-5	6.4 ft.	0.54 ac.	3.46 AF	1.5 AF	
	S-6	6.8 ft.	0.79 ac.	5.37 AF	4.2 AF	
	S-7	7.1 ft.	0.32 ac.	2.30 AF	7.7 AF	
	S-8	5.1 ft.	0.68 ac.	3.47 AF	4.2 AF	
				35.25 AF	33.0 AF	
Haga	H-1	6 ft. (estimated)	0.45 ac.	2.70 AF	9.1 AF	
	H-2	11.3 ft	0.90 ac.	10.17 AF	5.0 AF	
	H-3	6.0 ft.	0.72 ac.	4.32 AF	2.9 AF	5
	H-4	9.1 ft.	0.37 ac.	3.37 AF	6.0 AF	
	H-5	5 ft. (estimated)	0.32 ac.	1.60 AF	-----	
				22.16 AF	23.0 AF	
Bee Sting (1.1 ac. but not full)		3.0 ft.	0.60 ac.(1.1)	1.80 AF	23.0 AF	1
Manicke	M-1	6.5 ft.	0.97 ac.	6.30 AF	9.1 AF	
	M-2	6.4 ft.	0.53 ac.	3.40 AF	9.1 AF	
	M-3	8.5 ft.	1.04 ac.	8.84 AF	9.1 AF	4
	M-4	9.0 ft.	0.67 ac.	6.03 AF	2.7 AF	
				24.57 AF	30.0 AF	
Richert	R-5			not built	5.6 AF	
	R-1	4.6 ft.	0.26 ac.	1.20 AF	9.1 AF	
	R-3	5.0 ft.	0.52 ac.	2.60 AF	9.1 AF	
	R-4	4.2 ft.	0.70 ac.	2.94 AF	5.6 AF	4
	R-2	9.7 ft.	0.56 ac.	5.43 AF	5.6 AF	
				12.17 AF	35.0 AF	
				94.15AF	144.0 AF	21
Windhurst				470.0 AF	470.0 AF	1
			Total Storage	562.55 AF	614.0 AF	22

Storage listed here may or may not reflect what is reported when the Claim of Beneficial use is done. A more detailed observation may be necessary.

John Roth 01-20-24 C.J.

Signature Date

John Roth Chairman

Printed Name Title

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01-10-24

ATTACHMENT A

Extension Application Permit R-12928

12/8/2023

CHART - B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST
1960	CONSTRUCT MAICKE RES. #4	$5,000.00
1968	CONSTRUCT HAGA RES. #4	$2,500.00
1969	CONSTRUCT RICHERT RES. #4	$8,000.00
1971	CONSTRUCT SCHERER RES. #5 & #1	$9,000.00
1972	CONSTRUCT RICHERT RES. #2	$8,000.00
1975	CONSTRUCT SCHERER RES. #8, ENLARGE EXISTING RESERVOIR	$7,000.00
1980	CONSTRUCT MANICKE RES. #1 & #2	$15,000.00
1983	CONSTRUCT SCHERER RES. #6	$8,500.00
1988	CONSTRUCT MANICKE RES. #3	$10,000.00
1989	CONSTRUCT HAGA RES. #2	$4,500.00
1990	CONSTRUCT SCHERER RES. #4 & RE-SAND BOGS	$9,000.00
1993	CONSTRUCT HAGA RES. #3	$6,000.00
1993	CONSTRUCT RICHERT RES. #3	$15,000.00
1996	PARTIAL CONSTRUCTION OF BEE STING RES. (HAGA)	$1,500.00
2000	CONSTRUCT SCHERER RES. #3	$5,500.00
1998-2000	CONSTRUCT WINDHURST RES., INSTALL PIPING, WEIR, STAFF GAGES, METER	$1,600,000.00

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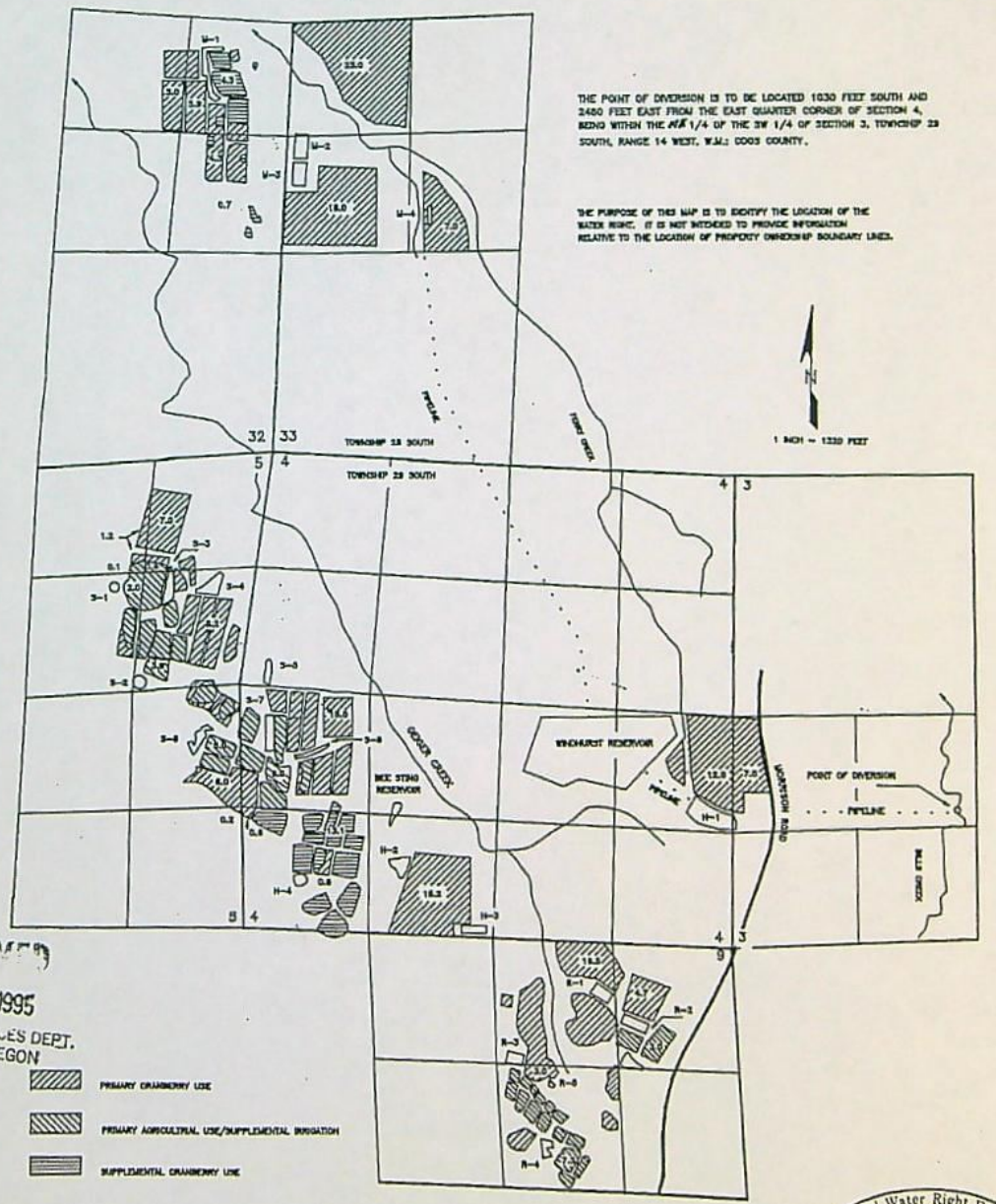
R-69708

APPLICATION MAP
IN THE NAME OF
WINDHURST ROAD SUB DISTRICT

SECTIONS 32 & 33, T 28 S, R 14 W, WM
AND
SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM



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WATER RESOURCES DEPT.
SALEM, OREGON

Certified Water Right Examiner
#054 WRE
James F. Gosson
Nov. 19, 1987
STATE OF OREGON

01-10-24

RECEIVED
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WATER RESOURCES DEPT.
SALEM, OREGON

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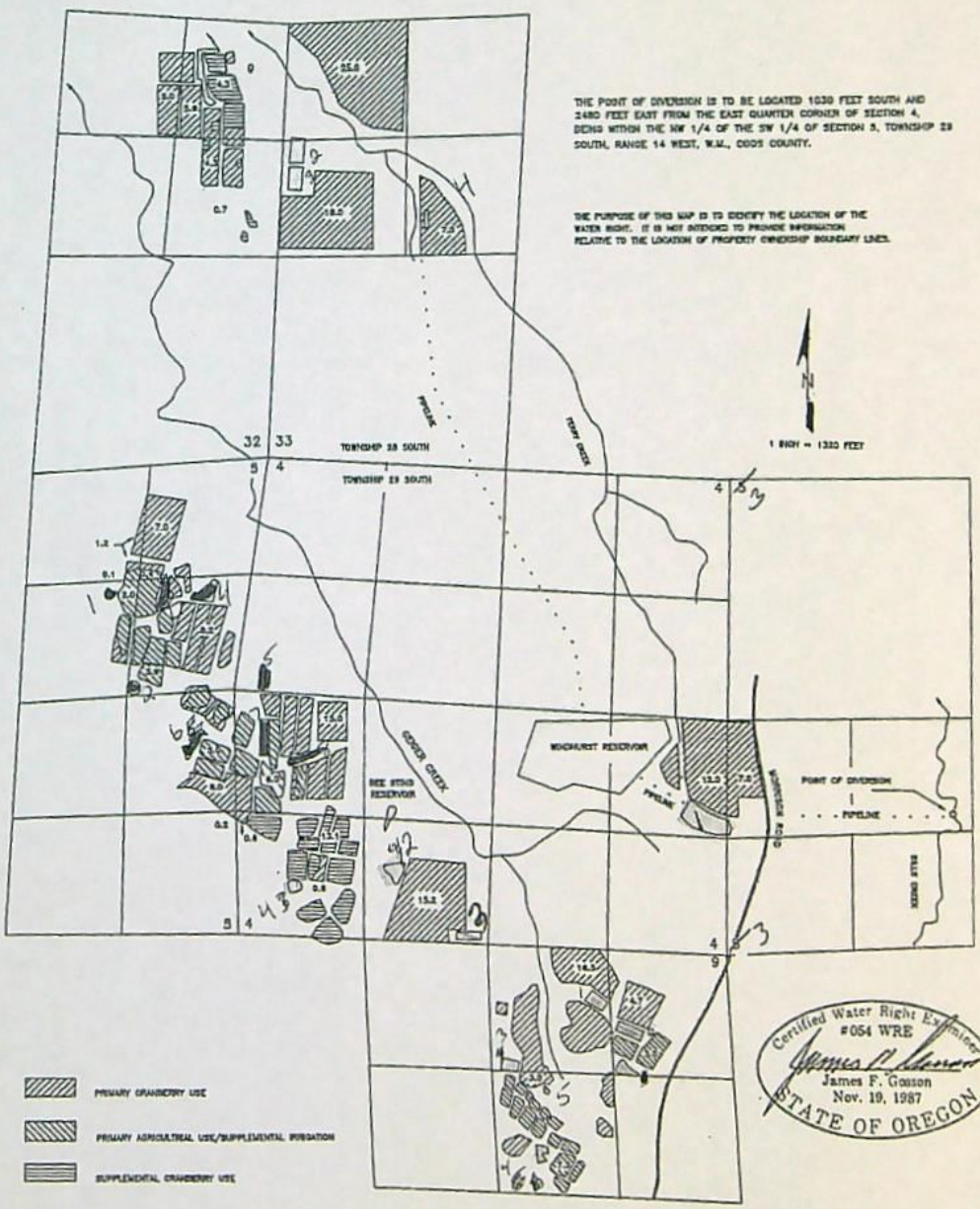
APPLICATION MAP
IN THE NAME OF
WINDHURST ROAD SUB DISTRICT

SECTIONS 32 & 33, T 28 S, R 14 W, WM
AND
SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM



Certified Water Right Examiner
#054 WRE
James F. Gasson
Nov. 19, 1987
STATE OF OREGON

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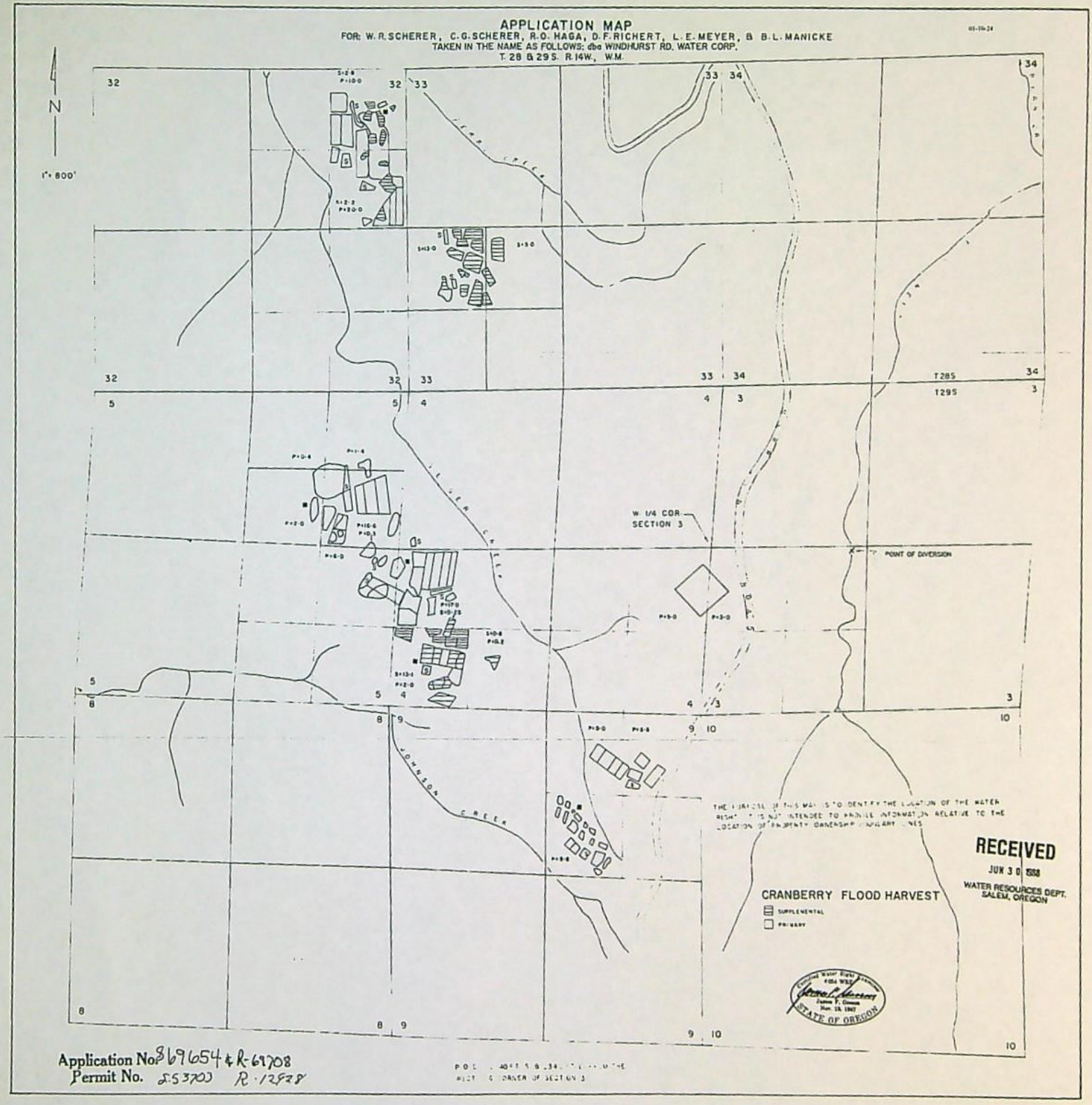
APPLICATION MAP

FOR: W. R. SCHERER, C. G. SCHERER, R. O. HAGA, D. F. RICHERT, L. E. MEYER, & B. L. MANICKE

TAKEN IN THE NAME AS FOLLOWS: dba WINDHURST RD. WATER CORP.

T. 28 & 29 S. R. 14W., W.M.



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 BOUNDARY LINES

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WATER RESOURCES DEPT.
SALEM, OREGON

Application No. S69654 & R-69708

Permit No. S-53703 R-12928

P.O.B. ... FEET S & ... FEET W OF THE WEST ¼ CORNER OF SECTION 3

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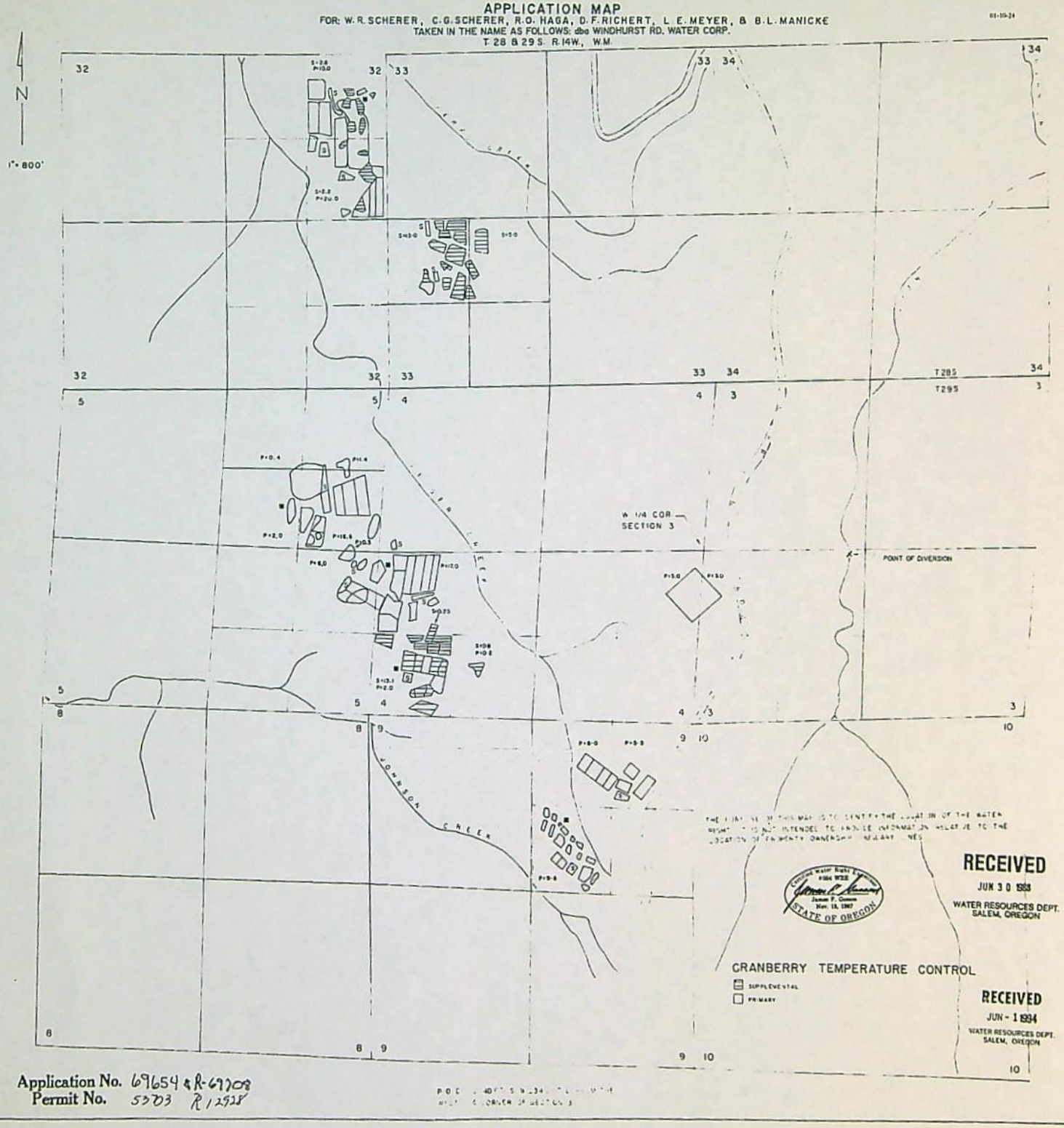

Application No. 69654 & R-69708
Permit No. 53703 R12928

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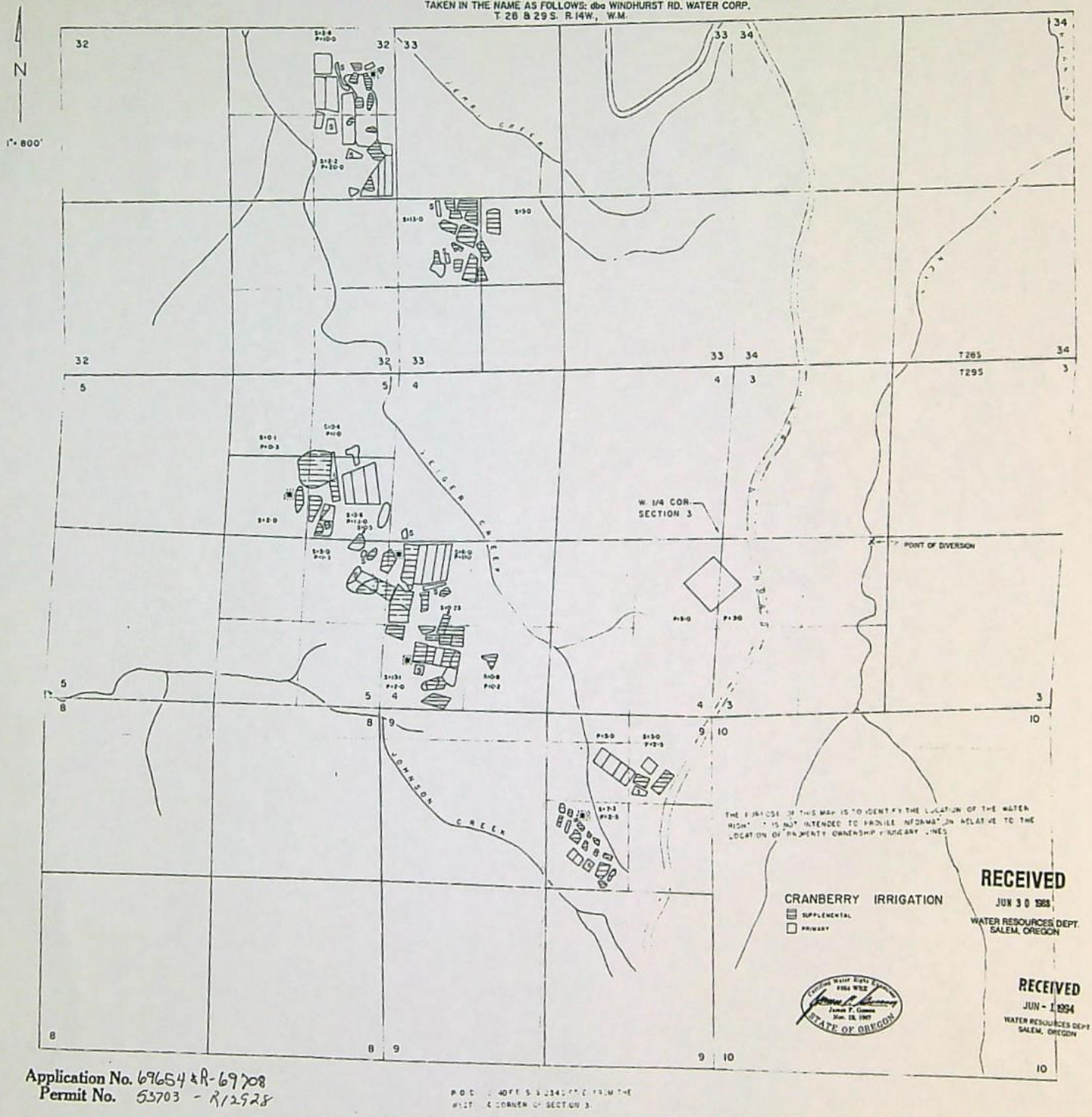
APPLICATION MAP

FOR: W.R. SCHERER, C.G. SCHERER, R.O. HAGA, D.F. RICHERT, L.E. MEYER, & B.L. MANICKE
TAKEN IN THE NAME AS FOLLOWS: dba WINDHURST RD. WATER CORP.
T 28 & 29 S. R 14W., W.M.



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WATER RESOURCES DEPT.
SALEM, OREGON

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JUN - 1 1984
WATER RESOURCES DEPT
SALEM, OREGON

Application No. 69654 & R-69708
Permit No. 53703 - R12928

P.O.C. : 400 FT. S. & 1340 FT. E. FROM THE W 1/4 CORNER OF SECTION 3

STATE OF OREGON

COUNTY OF COOS

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION
PO BOX 503 (541)347-3062
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: R-69708

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK

POINT OF DIVERSION LOCATION: NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH AND 2480 FEET EAST FROM W1/4 CORNER SECTION 3

STORAGE FACILITIES: 23 RESERVOIRS BEING WINDHURST: HAGA 1,2,3,4; BEE STING; SCHERER 1,2,3,4,5,6,7,8; MANICKE 1,2,3,4; RICHERT 1,2,3,4,& 5

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER PERMIT 53703 FOR CRANBERRY OPERATIONS.

VOLUME OF USE: 614 ACRE-FEET EACH YEAR, BEING 470 ACRE-FEET IN WINDHURST, 9.1 ACRE-FEET IN HAGA #1, 5.0 ACRE-FEET IN HAGA #2, 2.9 ACRE-FEET IN HAGA #3, 6.0 ACRE-FEET IN HAGA #4, 23.0 ACRE-FEET IN BEE STING, 1.4 ACRE-FEET IN SCHERER #1, 1.4 ACRE-FEET IN SCHERER #2, 5.6 ACRE-FEET IN SCHERER #3, 7.0 ACRE-FEET IN SCHERER #4, 1.5 ACRE-FEET IN SCHERER #5, 4.2 ACRE-FEET IN SCHERER #6, 7.7 ACRE-FEET IN SCHERER #7, 4.2 ACRE-FEET IN SCHERER #8, 9.1 ACRE-FEET IN MANICKE #1, 9.1 ACRE-FEET IN MANICKE #2, 9.1 ACRE-FEET IN MANICKE #3, 2.7 ACRE-FEET IN MANICKE #4, 5.6 ACRE-FEET IN RICHERT #1, 9.1 ACRE-FEET IN RICHERT #2, 9.1 ACRE-FEET IN RICHERT #3, 5.6 ACRE-FEET IN RICHERT #4, AND 5.6 ACRE-FEET IN RICHERT #5

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH MAY 31

DATE OF PRIORITY: SEPTEMBER 6, 1988, FOR 100 ACRE-FEET AND JUNE 1, 1994, FOR 514 ACRE-FEET

INSTANTANEOUS DIVERSION RATE: THE MAXIMUM DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED

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UNDER ANY PERMIT FOR APPLICATION S-69654, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW:

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the live flow diversion authorized under any permit for application S-69654, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application S-69654, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application S-69654, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for S-69654 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

The area submerged by the Windhurst Reservoir, when full, will be 23.0 acres and the maximum depth of water will be 24.0 feet. The maximum height of the dam shall not exceed 28.0 feet.

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The area submerged by the Haga Reservoir #1, when full, will be 2.6 acres and the maximum depth of water will be 9.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #2, when full, will be 0.8 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #3, when full, will be 0.5 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #4, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Bee Sting Reservoir, when full, will be 2.0 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Scherer Reservoir #1, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #2, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #3, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #4, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #5, when full, will be 0.5 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #6, when full, will be 0.7 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

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The area submerged by the Scherer Reservoir #7, when full, will be 1.0 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #8, when full, will be 0.5 acre and the maximum depth of water will be 12.0 feet The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Manicke Reservoir #1, when full, will be 1.1 acres and the maximum depth of water will be 11.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #4, when full, will be 0.3 acre and the maximum depth of water will be 10.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Richert Reservoir #1, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #3, when full, will be 0.7 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #4, when full, will be 0.7 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #5, when full will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

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THE AREAS TO BE SUBMERGED BY THE RESERVOIR ARE LOCATED AS FOLLOWS:

NE 1/4 NE 1/4	MANICKE #1
SECTION 32	
NW 1/4 NW 1/4	MANICKE #2
SW 1/4 NW 1/4	MANICKE #2,3
SE 1/4 NW 1/4	MANICKE #4
SECTION 33	
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.	
NW 1/4 SW 1/4	HAGA #1
SECTION 3	
SW 1/4 NW 1/4	SCHERER #5
NE 1/4 SW 1/4	BEE STING
NW 1/4 SW 1/4	SCHERER #7,8
SW 1/4 SW 1/4	HAGA #4
SE 1/4 SW 1/4	HAGA #2,3, BEE STING
NE 1/4 SE 1/4	WINDHURST, HAGA #4
NW 1/4 SE 1/4	WINDHURST
SECTION 4	
NE 1/4 NE 1/4	SCHERER #3
SW 1/4 NE 1/4	SCHERER #1
SE 1/4 NE 1/4	SCHERER #2,3,4
NE 1/4 SE 1/4	SCHERER #6
SECTION 5	
NE 1/4 NE 1/4	RICHERT #2
NW 1/4 NE 1/4	RICHERT #1,3
SW 1/4 NE 1/4	RICHERT #5,4
SECTION 9	
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.	

Measurement, recording and reporting conditions:

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

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

Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

No fill shall be placed until preparation of the foundation has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

Any significant change in the approved design prior to or during construction shall be documented by the engineer of record in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

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

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

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The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

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.

STANDARD CONDITIONS

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2005.

Issued October 10, 2000

Dwight Stroud for
Paul R. Cleary, Director
Water Resources Department

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Bandon Cranberry Water Control District
PO Box 1832
Bandon, OR 97411

REQUEST FOR RECONSIDERATION – DENIAL OF EXTENSION APPLICATION FOR S-12928

July 31, 2023

The requested extension of permit S-12928 was denied on July 7, 2023.

1. Extension of R-12928 is necessary to complete permit S-53703 which has been extended to 10/1/2024. **Use of stored water is crucial to completion of permit S-53703.** Newly constructed bogs will need use of water from a reservoir (about 5 acre-feet) completed aer the last completion date. A previous owner, before the current owner, started the newly completed reservoir aer a previous owner listed on the permit (Scherer) died. Please see attached 10/29/2019 Google aerial photo that shows partial construction of reservoir. This photo was taken a day prior to the current completion date.

2. Partial construction of the reservoir shown on the attached aerial photo was inadvertently not included in the extension application.

3. **Bogs have recently been constructed under permit S-53703 that are dependent on permit R-12928 being extended.** Permit S-53703 has been extended unl October 1, 2024.

4. The current completion date for R-12928 is October 30, 2019.

5. Two major land owners have died prior to this extension application (Haga 2016 and Scherer 2014). These land owners were managing the Special District. There are new managers and a new owner of the Scherer property as of 3/3/2020, who has been working toward compleon of permits R-12928 and S-53703. The deaths of the two major cranberry farmers significantly delayed progress toward completion of both permits.

6. All water for all reservoirs under permit R-12928 comes from a single pump diversion on Bill Creek. No diversion changes (other than a slightly different location for a new fish screen) are needed. No increase in rate of diversion is needed.

7. The Extension Application indicated, in error, that the total storage listed in the permit had been stored. There had not been a survey of storage volume to document the total water stored.

8. Water Resources staff requested the applicant's consultant do a field survey of all reservoirs to determine the total acre-feet stored to date to see whether the full amount of water had been stored or not. It seemed as though the stated storage of 614 AF was the reason as to be why it was proposed the extension be denied. It appeared there would be no reason for an extension if 614 acre-feet had been stored and all conditions met. The consultant (Jordan Engineering) found that approximately 553 acre-feet of the 614 acre-feet allowed has been stored and used from 19 of 23 reservoirs allowed. Several other reservoirs were constructed but were not viable.

Bandon Cranberry Water Control District
PO Box 1832
Bandon, OR 97411

9. This is a mul-million dollar project that includes multiple land owners and NW Farm Credit Services.

10. When the permit applications were submitted (1988), the location and size of proposed reservoirs and cranberry bogs was tentative as brush and trees had to be removed to see if sites were viable. Also, at the time of submission of the permit application, it was understood that deviations, as long as they didn't exceed the permit limits, would be taken care of at proof (Claim of Beneficial Use).

11. The application for permit R-12928 was submitted in 1988. The use of water permit, S-53703 was also submitted in 1988. Permit R-12928 and S-53703 were not issued unl 10/10/2000.

12. Cranberry farming is a significant part of the economy of the area.

Proposed Final Order (PFO) Denying the Extension

1. Findings of Fact 14 of the PFO found reasonable diligence has been demonstrated.

2. Findings of Fact 15 found no issue with the amount of water available for other water rights or scenic waterway flows.

3. Findings of Fact 29 indicated the full amount of water was stored, so no undue hardship was found. However, evidence was submitted, at the Department's request, the full amount of water has not been stored. As stated in item 1, page one above, completion of a reservoir within the limits of permit R-12928 is necessary to complete permit S-53703 which has been extended.

4. Finding of Fact (FOF) 30 states "Based on Findings of Fact 7, 14 and 21, above, the Department finds that the Applicant has demonstrated good faith." FOF 7 indicates mely beginning of construction occurred. FOF 14 found reasonable diligence. FOF 21 found that about $1.7 million had been invested.

In summary, it appeared that the only reason for denial of the extension application for permit R-12928 is that the application indicated the full amount of permied acre-feet of water was stored. It was determined that this was only a guess so the Department staff requested that the applicant's consultant conduct a field survey to determine total storage to date. That information was submitted to the Department and showed the full volume of water has not been stored.

There are issues with the Final Order (FO). The FO indicates that permit R-12928 was issued on 10/10/2002. It was actually issued on 10/10/2000.

Also, the FO is not congruent with the PFO in that the PFO states that "the Department has determined the applicant has demonstrated reasonable diligence in previous performance under Permit R-12928. The FO states: "ADDITIONAL FINDINGS OF FACT
1. On September 13, 2022, agents for the permit holder submitted additional information esmang the total volume stored in the reservoirs. The estimated volume of storage developed is approximately 553.0 AF. Based on the additional finding of fact above, the Department has determined that diligence in the development of the water use authorized under this permit has not been demonstrated, and the Application does not provide good cause to approve an extension of me."

The Extension Application erroneously indicated the full amount of water had been stored. The Department seems to have indicated this was the reason for denying the extension in the PFO. The Department requested a field survey of the total storage to determine if it was equal to or less than what was permitted. The applicant was under the understanding that if less than the full amount of water had been stored then the Extension Application could move forward toward approval.

It seems the Department is now stang that since the full amount of storage has not occurred, that erases reasonable diligence. Please refer to item 1 page one – partial construction of a reservoir inadvertently not included in extension application.

The question arises as to why Department staff requested a field survey of total storage if the extension application was going to be denied either way.

Please notify in addition to the Windhurst Subdistrict c/o Bandon Cranberry Water Control District, the following persons of the Department's intention regarding this request for reconsideration of the denial of the extension application for permit R- 12928:

John Roth
Phone 541-297-6292
P.O. Box 362
Bandon, OR 97411

Clay Jordan, CWRE
Phone 541-430-6926
460 Jordan Lane
Roseburg, OR 97471

Respectfully submitted.


Google 10/29/2019
Write a description for your map
Legend
New reservoir site
New Bogs
S-53703
Google Earth
N
700 ft

Mailing List for Extension FO Copies

FO Date: July 7, 2023

Copies Mailed

Application: R-69708
Permit: R-12928

By: KMWF
On: JUL 07 2023

Original mailed to Applicant:

Windhurst Road Watering Corporation
P.O. Box 1832
Bandon, OR 97411

Copies sent to:

1. WRD - App. File R-69708/ Permit R-12928

2. Windhurst Subdistrict c/o Bandon Cranberry Water Control District
   P.O. Box 1832
   Bandon, OR 97411

3. Northwest Farm Credit Service, FLCA
   2222 NW Kline St.
   Roseburg, OR 97471

Fee paid as specified under ORS 536.050 to receive copy:

1. None

Receiving notification via e-mail FO available in WRIS for review
(DONE BY EXTENSION SPECIALIST)

2. WRD - Watermaster District 15, Susan Douthit

3. WRD – SWR Regional Manager, Jake Johnstone if DENIAL

CASEWORKER: JDP

Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time	) FINAL
for Permit R-12928, Water Right Application R-69708	) ORDER
in the name of Windhurst Road Watering Corporation	) DENIAL

Permit Information

Application:	R-69708
Permit:	R-12928
Basin:	South Coast / Watermaster District 15
Date of Priority:	September 6, 1988 for 100.0 AF; June 1, 1994 for 514.0 AF
Source of Water:	Bill Creek, a tributary of Bear Creek
Storage Facilities:	23 reservoirs being Windhurst: Haga 1, 2, 3, 4; Bee Sting; Scherer 1, 2, 3, 4, 5, 6, 7, 8; Manicke 1, 2, 3, 4; Richert 1, 2, 3, 4, & 5
Purpose of Use:	to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614 acre-feet (AF) each year, being 470 AF in Windhurts, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5
Maximum Rate:	2.75 maximum combined rate between Permits R-12928, and S-53703

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

Appeal Rights

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Application History

On October 10, 2002, Permit R-12928 was issued by the Department. The permit called for complete application of water to beneficial use by October 1, 2005. The most recent extension authorized completion of construction and complete application of water to beneficial use by October 30, 2019. On September 13, 2021, Scott R. Vierck, chairman of Windhurst Road Watering Corporation, submitted an Application for Extension of Time for Permit R-12928. In accordance with OAR 690-315-0050(2), on November 23, 2021, the Department issued a Proposed Final Order proposing to deny the time to apply water to full beneficial use from October 30, 2019, to October 1, 2024. The protest period closed January 7, 2022, in accordance with OAR 690-315-0060(1). On December 20, 2021, a timely protest was received. The protest asserted the denial of the extension did not adequately take into account the movement of the point of diversion by Oregon Department of Fish and Wildlife (ODFW) after the extended completion date of October 30, 2019, and how the movement of the point of diversion affects the ability to complete a claim of beneficial use; the passing of several of the original permit applicants; and that an approval of the extension of R-12928 would align the completion timelines with those of Permit S-54073. The protest was accompanied by amended pages of the Application for Extension of Time, which included a statement that the volume of water stored to date is "unknown".

FINDINGS OF FACT

The Department adopts and incorporates by reference the findings in the Proposed Final Order dated November 23, 2021.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may not be extended.

ADDITIONAL FINDINGS OF FACT

1. On September 13, 2022, agents for the permit holder submitted additional information estimating the total volume stored in the reservoirs. The estimated volume of storage developed is approximately 553.0 AF.

Based on the additional finding of fact above, the Department has determined that diligence in the development of the water use authorized under this permit has not been demonstrated, and the Application does not provide good cause to approve an extension of time.

CONCLUSION OF LAW

The applicant has not demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

ORDER

The extension of time for Application R-69708, Permit R-12928, therefore, is Denied.

DATED: July 7, 2023

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

- If you have any questions about statements contained in this document, please contact Permit Extension Specialist at (503) 979-3213.
- If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900

PIERCEALL Jeffrey D * WRD

From: FRENCH Dwight W * WRD
Sent: Wednesday, June 14, 2023 1:09 PM
To: normthewaterguy@charter.net
Cc: PIERCEALL Jeffrey D * WRD
Subject: RE: Windhurst R-12928

Thanks Norm. I'm adding your email to the file and we'll consider the contents before we take a next step.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

We're hiring! See the current list of jobs here.

NOTE: The Salem office is now open to the public. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8:00 a.m. – 5:00 p.m. every day. The Salem office of OWRD is closed for customer service drop-ins from Noon – 1pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: normthewaterguy@charter.net <normthewaterguy@charter.net>
Sent: Wednesday, June 14, 2023 1:00 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>
Subject: Windhurst R-12928

Hi Dwight,

Thanks for talking with Clay and me this morning. I think we were nearly finished when your phone shut off. It might, however, be good to have another short conference call.

Please let Clay and I know when would be a good time to call you.

One of the items I did not get to is the mindset at the time of the permit application. The priority date for the first 100 AF is 1988 and 1994 for 514 AF. The priority date for the use of all stored water is 1988. 1988 was shortly after the transition from State Survey Crews to CWRE's.

I believe John Youngquist assisted in the original application and some of the amendments. At that time. I believe the mind set was it was just an application, a proposal and any differences would be taken care of at proof.

Since all storage comes from Bill Creek and is measured by meter, the location of the reservoirs seems less important especially since the Windhurst Subdistrict is a "special district".

The rate of diversion will not be increased if the extension is approved and storage increased with Mr. Roth's newest reservoir. Total storage will still be within the permit maximum. Permit R-12928 has conditions that prohibit diverting more than 50% of the flow of Bill Creek and a limit of not more than 2.75 CFS for combined permits.

Clay submitted a listing of existing reservoirs and their storage capacity based on our field inspection. This list was signed and dated by each water user. Is this sufficient to show less than the permit maximum was stored, or should the Windhurst Subdistrict submit an amended extension application page revising total storage as determined by our field inspection?

Thanks.

Norm

Norm Daft (541) 761-1057

STATE OF OREGON

WATER RESOURCES DEPARTMENT

RECEIPT # 137128

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIVED FROM: Bandon Cranberry Water

BY: _____

APPLICATION	R-69708
PERMIT	R-12928
TRANSFER	

CASH: ☐ CHECK:# ☒ 1803 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D $ 480.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES		$
_____	OTHER:	(IDENTIFY) _____	$

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water-_____

4270 WRD OPERATING ACCT

47235

MISCELLANEOUS

0407	COPY & TAPE FEES		$
0410	RESEARCH FEES		$
0408	MISC REVENUE: (IDENTIFY)	_____	$
TC162	DEPOSIT LIAB. (IDENTIFY)	_____	$
0240	EXTENSION OF TIME		$

WATER RIGHTS:

		EXAM FEE		RECORD FEE
0201	SURFACE WATER	$	0202	$
0203	GROUND WATER	$	0204	$
0205	TRANSFER	$		

WELL CONSTRUCTION

		EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	$	0219	$
	LANDOWNER'S PERMIT		0220	$

0223 OTHER (IDENTIFY) Protest Fee $ 480.00

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	$	CARD#	
0210	MONITORING WELLS	$	CARD#	

_____ OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)		$
0231	HYDRO LICENSE FEE (FW/WRD)		$
_____	HYDRO APPLICATION		$

_____ TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ $ _____

RECEIPT: 137128 DATED: 12-20-2021 BY: Mindy Cadsn

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

RECEIVE
DEC 20 20
OWRD

Bandon Cranberry Water Control District

PO Box 1832 | Bandon, Oregon 97411

Oregon Water Resources Department
Attn: Patricia McCarty
725 Summer Street NE, Suite A
Salem, OR 97301

Petition to Protest Proposed Final Order (PFO) to deny Extension Application – Permit R-12928
OAR690-315-0060 Proposed Final Order Hearing Rights

Petitioner for Protest:

Windhurst Subdistrict c/o Bandon Cranberry Water Control District Phone: 541-297-6292
P.O. Box 1832
Bandon, OR 97411

The Windhurst Subdistrict is the holder of permit R-12928.

The action denying the extension request proposed by the Department will adversely affect petitioner by inhibiting proposed efficiency measures and completion of a proper Claim of Beneficial Use (COBU).

The PFO does not adequately address the movement of the point of diversion by ODF&W after the current completion date (10/30/2019). ODF&W has proposed to improve fish screening by installing an infiltration box rather than a mechanical screen. This necessitates moving the current diversion 30+ feet upstream. The proposed screening improvement is scheduled for sometime in 2022, assuming funds are available.

OAR 690-014-0100(2) states: *"The CWRE shall provide the Department with sufficient information for the Director to determine the extent of beneficial use developed within the conditions or limits of the permit or transfer final order, including any specified time limits."* A COBU performed after the current completion date of 10/30/2019, could not include the proposed diversion location as meeting time limits of the permit or prior extension. This in effect could damage the public interest in that the proposed fish screening improvement would essentially be from an unauthorized diversion. ODF&W and the Windhurst Subdistrict are under a cooperative contract whereby ODF&W is responsible for maintenance of fish screening devices. ODF&W has determined the proposed movement and improvement of the diversion would better protect the fishery resource.

The PFO also does not adequately address the passing of several of the original permit applicants. New owners believe slight alterations in various reservoirs as to exact size and location could significantly improve water use efficiency.

The extension of permit R-12928 would put it on the same timeline as the use of stored water under permit, S-54073, which has been extended. Requiring two separate COBU's at two different times would unnecessarily result in an undue hardship by significantly increasing costs for COBU's.

Approving the extension of time to match that of S-54073 would remedy the issues stated above.

Sincerely,

Scott Vierck

Scott Vierck, Board Chairman

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OWRD

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Tuesday, December 28, 2021 8:32 AM
To: MCCARTY Patricia E * WRD
Subject: RE: new extension protest in your district-Windhurst reservoirs

I am not seeing any issue raised that would change the determinations made. The App that was submitted clearly indicates the permit has been fully developed as authorized, therefore an Extension is not necessary.
The change in POD after the C-Date can be handled by submitting a CBU to address the pre C-Date configuration, request a certificate, and submit a transfer. An EOT simply to do a PA is not a justification for an extension.
Additionally, the Application identified additional work needing accomplished as consolidating existing reservoirs, and constructing new reservoirs. As the permit has been fully developed, this additional work would likely result in storage beyond the permitted volume.

I do not see any significant issue raised in the protest and would not recommend a settlement.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: MCCARTY Patricia E * WRD <Patricia.E.MCCARTY@water.oregon.gov>
Sent: Tuesday, December 28, 2021 8:14 AM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Cc: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; JOHNSTONE Jake D * WRD <Jake.D.JOHNSTONE@water.oregon.gov>
Subject: new extension protest in your district-Windhurst reservoirs

Sincerely,
Patricia McCarty (patricia.e.mccarty@water.oregon.gov)
Protest Program Coordinator
725 Summer St NE Suite A | Salem OR 97301 | Phone 503-979-9160
Work hours: 7:30-5:30, off alternate Fridays
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Amended Pages – Permit R-12928

Scott R. Vierck	chairman	[signature]	3-15-2020
Print Name	Title	Signature	Date

[OAR 690-315-0020(3)(e)(B)]

Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit made to date.

TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

6. For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

TIP: Report the rate in the same units of measurement as specified in the permit.

Maximum rate used to date = _____ cfs (cubic feet per second) *or,*

Maximum rate used to date = _____ gpm (gallons per minute) *or,*

Maximum volume of stored water used to date = or,

Maximum volume stored annually to date = approximately *unknown* AF *see item #13*

7. For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment?	Maximum instantaneous rate used to date from this well - - under this permit only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total instantaneous rate from all wells utilized under this permit								

8. Has a Permit Amendment Application been filed? Yes ☐ No ☒

Amended Pages – Permit R-12928

Print Name	Title	Signature	Date
Scott Vieck	Chairman	[signature]	3-15-2022

If yes, identify Transfer No. T-_____

[OAR 690-315-0020(3)(e)(C)]

9. For Irrigation and Nursery Use Permits Extensions

Provide the total number of acres irrigated to date under this permit.

a) Total acres irrigated to date: _____

b) List by year, the number of acres irrigated each year since permit issuance.

Year	Acres	Year	Acres	Year	Acres

c) Provide a copy of the application map identifying the acres irrigated.

d) Please specify the number of acres irrigated by each Point of Diversion/Point of Appropriation (POD/POA).

(POD/POA)#_____ Acres_____ (POD/POA) #_____ Acres_____

(POD/POA) #_____ Acres_____ (POD/POA) #_____ Acres_____

[OAR 690-315-0020(3)(i)(j)]

10. In the chart below provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2021-2026	*Determine storage capacities of smaller reservoirs -*	275,000
	Reconstruct, construct smaller reservoirs	
2021--2022	Complete New diversion from Bill Creek in Cooperation with ODF&W	70,000
Year: 2026	**Date intend to apply water to full beneficial use under the terms and conditions of this permit.**	
	Total Cost	**345,000**

[OAR 690-315-0020(3)(g)]

11. Estimated remaining cost to complete the project: 345,000

(The total cost from CHART-E)

Amended Pages – Permit R-12928			
Scott Rivers	chairman	Scott Rivers	9-15-2022
Print Name	Title	Signature	Date

[OAR 690-315-0020(3)(j)]

12. Provide a summary of your plan to complete construction, meeting all permit conditions and apply the water to beneficial use: *(List all tasks or steps needed to complete the project, the date when each task will be completed, and the cost associated with each task; attach additional pages if necessary.)* All conditions of permit have been met. Reservoirs to be constructed or enlarged by 2028. *Some staff gages will need to be re-set or replaced if small reservoir capacities are adjusted (see #13 below).*

[OAR 690-315-0020(3)(k)]

13. Justify the time requested to complete the project and/or apply the water to full beneficial use. *(Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.)*

The project is designed to take longer to complete than the permit allowed due to the size of acreage and owners involved. Ownership of properties in the permit have changed hands. Increase in expenses and fluctuating costs of cranberries have made the project more difficult to complete. Cranberry prices have risen recently which will help move the project forward. See also #16 below. *The main large reservoir is the only reservoir that has engineered plans. The smaller reservoirs have never actually been surveyed to determine their actual storage. We need time to make a physical inspection of each of the smaller reservoirs to determine their storage and to make appropriate adjustments to their capacities within the limits of the permit.*

[OAR 690-315--0020(3)(l)]

14a. Will a denial of the extension result in undue hardship? *(Describe the hardship and the effects.)* There are multiple family farms covered under this permit and all of them use it. The total investment to date is approximately $2,000,000. These families depend on the income from farming cranberries.

14b. Are there any other reasonable alternatives that exist for meeting your water use needs? *(Explain in detail, consider other potential sources of water, and describe their feasibility)* None There are no other potential sources of water which are feasible for the volume of water that is necessary

PIERCEALL Jeffrey D * WRD

From: FRENCH Dwight W * WRD
Sent: Monday, March 28, 2022 8:53 AM
To: MCCARTY Patricia E * WRD; CROSS Will F * WRD; RATCLIFFE Katie S * WRD
Cc: PIERCEALL Jeffrey D * WRD
Subject: FW: Extension R-12928 Windhurst
Attachments: R-12928 Amended Pages.pdf

Good Morning,
I received these amended extension application pages while I was on vacation. It confirms that they don't actually know how much water they have stored and need to time inspect and adjust as necessary. I believe the next step is for us to issue a superseding PFO to approve and about the same time issue a protest fee refund to the applicant.
If anyone has any questions about next steps let me know and we can discuss.
Thank you,
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

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From: KCJ <kcjengineer@zoho.com>
Sent: Sunday, March 20, 2022 12:44 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight,
Please see attached amended pages.
Thanks for all your help.
Let me know if more information is needed.
Clay

---- On Mon, 14 Mar 2022 10:45:03 -0700 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

We are on the same page. Can we have the permit holder sign/date all of the amended pages? Or better yet, can you have the permit holder send in (or fax or email would be great) a new application, without fee that includes these pages I just reviewed and everything else the same?
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To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight:
Please see the attached proposed amended extension pages R-12928. Let us know if we are on the same page per our last phone call.
Keep in mind, from our perspective, the permit holders statement in previous extensions regarding reservoirs completion were, at the time, philosophically miss-guided without professional counseling.
Thanks,
Clay

---- On Thu, 03 Feb 2022 14:57:18 -0800 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

> Good Afternoon,
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> It should only take 30 mins or less.
> I want to propose how you could amend the current protested application to demonstrate that the development under the existing permit is either not done or might not be done after all.
> Thanks,
> Dwight
>
> *Dwight French*
> Water Right Services Division Administrator
> Oregon Water Resources Department
> 725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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From: Norm Daft <normthewaterguy@charter.net>
Sent: Wednesday, February 2, 2022 12:13 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>
Subject: Extension R-12928 Windhurst

Hi Dwight,

I received a call from several of the Windhurst Reservoir folks yesterday concerning their protest to the extension denial.

As I understand it, you have been contacted by them and have briefly discussed the matter.

I also understand there may be an opportunity to submit amendments to the application or provide additional information.

They have asked Clay and me to assist them in moving forward.

Not knowing the specifics of any discussions, we would appreciate any guidance you can provide.

It might be helpful for Clay and I to have a conference call with you to discuss how to move forward. Please let us know some times you might be available.

You can call Clay at 541-430-6926 and he can add me in or he can call you if we know what time you can be available.

Thanks for your consideration of this matter.

Norm

Norm Daft
(541) 761-1057

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Monday, March 28, 2022 9:09 AM
To: FRENCH Dwight W * WRD; MCCARTY Patricia E * WRD; CROSS Will F * WRD; RATCLIFFE Katie S * WRD
Subject: RE: Extension R-12928 Windhurst

Dwight,
I think a discussion about this is warranted before moving to a superseding PFO. The original PFO was to deny due to not demonstrating a need for the extension, however, if additional time is needed to develop additional storage, then other considerations may need to be addressed in determining if there is good cause to allow for additional storage 20 + years after permit issuance.

One note on the updated information submitted is that they have not included the volume stored to date, which is a requirement of the application (690-315-0020(3)(e)(B)). Prior to moving forward, I think they need to provide the current storage volume of each reservoir.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@oregon.gov

OREGON WATER RESOURCES DEPARTMENT

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Cc: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
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Oregon Water Resources Department

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> Dwight
>
> *Dwight French*
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> Oregon Water Resources Department
> 725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)
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I also understand there may be an opportunity to submit amendments to the application or provide additional information.

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It might be helpful for Clay and I to have a conference call with you to discuss how to move forward. Please let us know some times you might be available.

You can call Clay at 541-430-6926 and he can add me in or he can call you if we know what time you can be available.

Thanks for your consideration of this matter.

Norm

Norm Daft
(541) 761-1057

PIERCEALL Jeffrey D * WRD

From: FRENCH Dwight W * WRD
Sent: Friday, May 6, 2022 8:16 AM
To: PIERCEALL Jeffrey D * WRD
Subject: FW: Extension R-12928 Windhurst

For your E folder on this file.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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NOTE: The Salem office will re-open to the public on May 1, 2022. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8 a.m. - 5 p.m. every day. The Salem office of OWRD is closed for customer service drop-ins from Noon – 1pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: FRENCH Dwight W * WRD
Sent: Friday, May 6, 2022 8:15 AM
To: Norm Daft <normthewaterguy@charter.net>
Cc: KCJ <kcjengineer@zoho.com>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

I appreciate the update Norm.
Good luck with the survey.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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From: Norm Daft <normthewaterguy@charter.net>
Sent: Thursday, May 5, 2022 7:51 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

Dwight,

The plan is for Clay and I to examine the reservoirs this summer and submit our findings shortly thereafter.

We hope to get it done with one field visit. There are a number of property owners to coordinate with so we don't have a specific date.

Thanks for your help on this matter.

Norm

Norm Daft
(541) 761-1057

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Friday, April 22, 2022 4:37 PM
To: KCJ <kcjengineer@zoho.com>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Hello Clay and Norm,
Please excuse my tardiness in getting back to you with a request for more information. I've been meaning to reach out to you but have been busy and …. I don't have any excuses, I just didn't get it done.
Anyway: Our extension application requirements at OAR 690-315-0020 (3eB) [below] require that you indicate to us the maximum duty of water that has been stored. This requirement doesn't fit with your situation very well because this question is a major, if not thee major, point of the extension. I apologize for not catching this when we spoke a couple months ago. My staff are sticklers for minimum application requirements for good reason – we've been sent back to the

drawing board late in the process a few times when we determined, late in the process, that we didn't have a complete application.

Our previous (you and me) thinking was that once an extension was approved you would proceed with a survey to determine the actual storage capacity of all of the reservoirs on this permit then decide if there was a need to increase (or decrease perhaps) the size of any of the reservoirs to get you up to the maximum allowed under the permit. To satisfy the application requirement I propose that you provide us an estimate of how much time it will take to do the survey, then we'll put the application on hold until a survey is submitted showing the amount of water stored in each reservoir and then move forward with processing the extension application. The survey will be needed at some point anyway. I'm suggesting, in order to have a complete application, that you perform the reservoir surveys of the reservoirs now instead of later.
I can become available to discuss if you have any further questions.
By the way: Our CWRE workshop this fall will be in Roseburg and not Grants Pass. Its either the 7th or the 14th of October.
I hope you have gotten an early start towards enjoying your weekend.
Dwight

=-=-=-=-=-=-=-=-=-=-=-=-=

OAR 690-315-0020

(3) The completed application must include the fee specified in ORS 536.050 and an application form setting forth:

(a) The name and mailing address of the water right permit holder(s);

(b) The permit number for which an extension is requested;

(c) If the water right permit holder receives delivery of the subject water right permit from a municipality, municipal corporation, or other special district, the applicant shall provide the name of the entity and evidence that a copy of the application for extension of time has been provided to the entity responsible for delivering the water;

(d) Evidence of the actions taken to begin actual construction within the time period in the permit or previous extension:

(A) "Actual construction" means physical work performed towards completion of the water system, which demonstrates both the present good faith of the water right permit holder and the water right permit holder's intention to complete the project with reasonable diligence;

(B) "Actual construction" does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, or surveying.

(e) Evidence of progress made toward completion of the water development and application to full beneficial use, which includes but is not limited to:

(A) The annual accomplishments toward perfecting the water right under the terms and conditions of the permit, including the dates on which each condition contained in the relevant permit and any previous extension(s) was satisfied or the reason the condition was not satisfied;

(B) The maximum rate, or duty if applicable, of diversion, if any, made to date; and

(C) If for irrigation, a listing by year of the number of acres irrigated each year since permit issuance, the total number of acres irrigated to date under the permit or previous extension, and a copy of the application map showing the acres irrigated.

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

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From: KCJ <kcjengineer@zoho.com>
Sent: Wednesday, March 9, 2022 9:05 AM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight:
Please see the attached proposed amended extension pages R-12928. Let us know if we are on the same page per our last phone call.
Keep in mind, from our perspective, the permit holders statement in previous extensions regarding reservoirs completion were, at the time, philosophically miss-guided without professional counseling.
Thanks,
Clay

---- On Thu, 03 Feb 2022 14:57:18 -0800 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

> Good Afternoon,
> I'm going to try to call Clay now but if that doesn't work, I'm available from 3:30-5 today and tomorrow 830-930, 11-12 or 2-3.
> It should only take 30 mins or less.
> I want to propose how you could amend the current protested application to demonstrate that the development under the existing permit is either not done or might not be done after all.
> Thanks,
> Dwight
>
> *Dwight French*
> Water Right Services Division Administrator
> Oregon Water Resources Department
> 725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)
>
> OREGON WATER RESOURCES DEPARTMENT
>
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> We're hiring! See the current list of jobs here.

From: Norm Daft <normthewaterguy@charter.net>
Sent: Wednesday, February 2, 2022 12:13 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>
Subject: Extension R-12928 Windhurst

Hi Dwight,

I received a call from several of the Windhurst Reservoir folks yesterday concerning their protest to the extension denial.

As I understand it, you have been contacted by them and have briefly discussed the matter.

I also understand there may be an opportunity to submit amendments to the application or provide additional information.

They have asked Clay and me to assist them in moving forward.

Not knowing the specifics of any discussions, we would appreciate any guidance you can provide.

It might be helpful for Clay and I to have a conference call with you to discuss how to move forward. Please let us know some times you might be available.

You can call Clay at 541-430-6926 and he can add me in or he can call you if we know what time you can be available.

Thanks for your consideration of this matter.

Norm

Norm Daft
(541) 761-1057

PIERCEALL Jeffrey D * WRD

From: FRENCH Dwight W * WRD
Sent: Tuesday, September 13, 2022 2:49 PM
To: PIERCEALL Jeffrey D * WRD
Subject: FW: Extension R-12928 Windhurst
Attachments: Storage in Reservoirs - Winhurst.pdf

I believe this is the information we need to move forward with the pending extension for this permit. Let me know if you have questions or concerns.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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From: KCJ <kcjengineer@zoho.com>
Sent: Tuesday, September 13, 2022 12:19 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: norm daft <normthewaterguy@charter.net>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

Dwight,
See attached with total AF.
Clay

---- On Fri, 06 May 2022 08:14:40 -0700 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ---

I appreciate the update Norm.

Good luck with the survey.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)



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NOTE: The Salem office will re-open to the public on May 1, 2022. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8 a.m. - 5 p.m. every day. The Salem office of OWRD is closed for customer service drop-ins from Noon – 1pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: Norm Daft <normthewaterguy@charter.net>
Sent: Thursday, May 5, 2022 7:51 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

Dwight,

The plan is for Clay and I to examine the reservoirs this summer and submit our findings shortly thereafter.

We hope to get it done with one field visit. There are a number of property owners to coordinate with so we don't have a specific date.

Thanks for your help on this matter.

Norm

Norm Daft
(541) 761-1057

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Friday, April 22, 2022 4:37 PM
To: KCJ <kcjengineer@zoho.com>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Hello Clay and Norm,

Please excuse my tardiness in getting back to you with a request for more information. I've been meaning to reach out to you but have been busy and .... I don't have any excuses, I just didn't get it done.
Anyway: Our extension application requirements at OAR 690-315-0020 (3eB) [below] require that you indicate to us the maximum duty of water that has been stored. This requirement doesn't fit with your situation very well because this question is a major, if not thee major, point of the extension. I apologize for not catching this when we spoke a couple months ago. My staff are sticklers for minimum application requirements for good reason – we've been sent back to the drawing board late in the process a few times when we determined, late in the process, that we didn't have a complete application.

Our previous (you and me) thinking was that once an extension was approved you would proceed with a survey to determine the actual storage capacity of all of the reservoirs on this permit then decide if there was a need to increase (or decrease perhaps) the size of any of the reservoirs to get you up to the maximum allowed under the permit. To satisfy the application requirement I propose that you provide us an estimate of how much time it will take to do the survey, then we'll put the application on hold until a survey is submitted showing the amount of water stored in each reservoir and then move forward with processing the extension application. The survey will be needed at some point anyway. I'm suggesting, in order to have a complete application, that you perform the reservoir surveys of the reservoirs now instead of later.
I can become available to discuss if you have any further questions.
By the way: Our CWRE workshop this fall will be in Roseburg and not Grants Pass. Its either the 7th or the 14th of October.
I hope you have gotten an early start towards enjoying your weekend.
Dwight

=-=-=-=-=-=-=-=-=-=-=-=-=

OAR 690-315-0020

(3) The completed application must include the fee specified in ORS 536.050 and an application form setting forth:

(a) The name and mailing address of the water right permit holder(s);

(b) The permit number for which an extension is requested;

(c) If the water right permit holder receives delivery of the subject water right permit from a municipality, municipal corporation, or other special district, the applicant shall provide the name of the entity and evidence that a copy of the application for extension of time has been provided to the entity responsible for delivering the water;

(d) Evidence of the actions taken to begin actual construction within the time period in the permit or previous extension:

(A) "Actual construction" means physical work performed towards completion of the water system, which demonstrates both the present good faith of the water right permit holder and the water right permit holder's intention to complete the project with reasonable diligence;

(B) "Actual construction" does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, or surveying.

(e) Evidence of progress made toward completion of the water development and application to full beneficial use, which includes but is not limited to:

(A) The annual accomplishments toward perfecting the water right under the terms and conditions of the permit, including the dates on which each condition contained in the relevant permit and any previous extension(s) was satisfied or the reason the condition was not satisfied;

(B) The maximum rate, or duty if applicable, of diversion, if any, made to date; and

(C) If for irrigation, a listing by year of the number of acres irrigated each year since permit issuance, the total number of acres irrigated to date under the permit or previous extension, and a copy of the application map showing the acres irrigated.

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)



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NOTE: The Salem office will re-open to the public on May 1, 2022. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8 a.m. - 5 p.m. every day. The Salem office of OWRD is closed for customer service drop-ins from Noon – 1pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: KCJ <kcjengineer@zoho.com>
Sent: Sunday, March 20, 2022 12:44 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight,
Please see attached amended pages.
Thanks for all your help.
Let me know if more information is needed.
Clay

---- On Mon, 14 Mar 2022 10:45:03 -0700 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

CAROLLO
LAW GROUP

Dominic Carollo
Managing Attorney
dcarollo@carollolegal.com · 541-957-5900
PO Box 2456, Roseburg, OR 97470
2315 Old Hwy 99 S., Roseburg, OR 97471

August 25, 2023

Via Certified Return Receipt Requested
Receipt No. 7021 0350 0001 1743 1296

Dwight French, Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

RE: Amended Petition for Reconsideration in the Matter of the Application for an Extension of Time for Permit R-12928 in the Name of Windhurst Road Watering Corporation

Mr. Dwight French:

Our office represents Windhurst Road Watering Corporation ("Windhurst") with regards to the Oregon Water Resources Department's final order denying the application for extension of time for Permit R-12928, Water Right Application R-69708. Pursuant to ORS 183.482 and OAR 137-003-0675, please find attached Windhurst's amended Petition for Reconsideration of the final order denying Windhurst's application. This petition is timely as it was received by the Oregon Water Resources Department within 60 days following the date the order upon which the petition is based was served.

Please send any correspondence regarding this matter to:

Dominic M. Carollo, OSB No. 093057
Email: dcarollo@carollolegal.com
Carollo Law Group LLC
Mail: P.O. Box 2456
Roseburg, OR 97470
Office: 2315 Old Highway 99 South
Roseburg, OR 97471
Ph: (541) 957-5900
Fax: (541) 957-5923

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Sincerely,

DOMINIC M. CAROLLO
DMC/

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BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON

IN THE MATTER OF THE APPLICATION FOR AN EXTENSION OF TIME FOR PERMIT R-12928, WATER RIGHT APPLICATION R-69708 IN THE NAME OF WINDHURST ROAD WATERING CORPORATION	AMENDED PETITION FOR RECONSIDERATION OF JULY 7, 2023 FINAL ORDER DENYING APPLICATION FOR EXTENSION OF TIME

On July 7, 2023 the Oregon Water Resources Department ("OWRD") issued a Final Order ("Final Order") denying Windhurst Road Watering Corporation's ("Windhurst") application for an extension of time for Permit R-12928, Water Right Application R-69708. *See* Exhibit 4. The Final Order notified Windhurst of the right to petition for reconsideration of the Final Order. *Id.*

Pursuant to ORS 183.482, OAR 137-003-0675, and OAR 690-001-0005, Windhurst, through its undersigned counsel, respectfully petitions OWRD to reconsider and withdraw the Final Order and grant Windhurst's application for an extension of time, or, alternatively, requests that OWRD hold a contested case hearing on the application. This Petition has been filed within 60 days of Windhurst receiving the Final Order, and is thus timely pursuant to OAR 137-003-0675. This Petition for Reconsideration is intended to supplement the Request for Reconsideration submitted by Windhurst on July 31, 2023 (Exhibit 10), and the amended Request for Reconsideration submitted by Windhurst on August 10, 2023. For the reasons set forth below, Windhurst respectfully requests reconsideration of the Final Order.

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I. INTRODUCTION

By all accounts the Final Order appears to stem from confusion between Windhurst and OWRD. Windhurst sincerely hopes that this Petition will clarify what have become areas of confusion, and in doing so will demonstrate why reconsideration of the Final Order is appropriate in this matter.

II. BACKGROUND

There are two water right permits which are relevant to this matter, both of which were issued by OWRD on October 10, 2000. The first is Permit R 12928, which is directly at issue here. Permit R 12928 was borne out of a need for more water by the cranberry farms located along and near Windhurst Road in Bandon, Oregon. In order to facilitate expansions of their operations, OWRD approved Permit R 12928. This permit authorizes the storage of 614 acre-feet ("AF") annually from 23 small reservoirs spread across multiple property owners.

Permit S 53703—which is not at issue here—is the right which is related to Permit R 12928, authorizing the use of the 614 AF of stored water for cranberry operations on 162.4 acres, agricultural use on 27.7 acres, and supplemental cranberry operations on 18.1 acres. Permit S 53703 is entirely reliant on the existence of Permit R 12928, and cannot exist without Permit R 12928's storage.

Permit R 12928 and Permit S 53703 were both approved by OWRD on October 10, 2000. The two permits have proceeded on parallel tracks since then, receiving multiple extensions of time given the complexity and scope of the projects, involving the construction of numerous reservoirs, cranberry bogs, water transmission and distribution infrastructure, and more across multiple landowners. On September 13, 3021 Windhurst representatives submitted applications for extensions of time for both Permit R 12928 and Permit S 53703. *See* Exhibit 3; Exhibit 4. These

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applications explained the progress Windhurst had made towards completion of the permits during the last extension period. For Permit R 12928 this included digging the Manicke Reservoir, finishing the Bee Sting Reservoir, enlarging Sherer reservoirs #1 and #2, installing water meters and staff gauges, running water lines, and more. *See* Exhibit 1 at 7. The applications also explained that three prominent property owners important to the permit area—W. Scherer, R. Haga, and F. Richert—had passed away recently. *Id.* at 11. All three of these landowners were chiefly involved with the application process for Permits R 12928 and S 53703, and the development of these permits, and their passing was a substantial step back in the permit development process. *See, e.g.*, Exhibit 7. Finally, the applications provided financial estimates of the amount of contribution and investment which had already been put towards the full completion of Permits R 12928 and S 53703. *See* Exhibit 1 at 7, 10.

OWRD, finding that Windhurst had exercised diligence and good cause in the development of the appropriation authorized by Permit S 53703, granted an extension of time for that permit on January 28, 2022. *See* Exhibit 3. However, Permit R 12928 reached a different result than its related right. On November 23, 2021 OWRD issued a proposed final order finding that Windhurst had exercised diligence and good cause, but nevertheless recommending the rejection of Windhurst's application for extension of time based on certain misstatements and representations in the application. *See* Exhibit 2. On July 7, 2023, OWRD issued its final order denying Windhurst's application pertaining to Permit R 12928. *See* Exhibit 4.

The final order denying Windhurst's application for extension of time of Permit R 12928 seems to stem from mistakes within Windhurst's application which led to confusion on behalf of OWRD. In its application Windhurst provided dates and costs illustrating the progress which was being made towards applying Permit R 12928 to its full beneficial use. However, Windhurst's

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application mistakenly stated that the maximum volume stored annually to date under Permit R 12928 at the time of the application was 614 AF—full beneficial use. *See* Exhibit 1 at 8; Exhibit 6 at 4. The application also stated that all conditions of the permit were currently met. The proposed final order relied on these mistakes within the application to find that an extension of time was not necessary because Permit R 12928 was being applied to its full beneficial use, and therefore instructed Windhurst to submit a Claim of Beneficial Use under the permit. *See* Exhibit 2 at 7. Windhurst submitted a protest in the time allowed after the proposed final order, and communicated with OWRD regarding the mistakes in the extension application. *See* Exhibit 5; Exhibit 6. In substance, Windhurst sought to explain that Permit R 12928 was not actually completed yet, and had not reached full beneficial use. Following its communications with OWRD Windhurst then sought to determine the current storage actually available under Permit R 12928. Windhurst hired a Certified Water Rights Examiner to survey the progress which had been made towards the permit, and the quantity of water which was not yet being stored under the permit. Although Windhurst submitted a timely protest no hearing was held on the application.

The Final Order correctly recognized that Windhurst had not yet brought Permit R 12928 up to full beneficial use. The Final Order found that Windhurst could store 553 of 614 AF under the permit based on the current work that had been completed. Exhibit 4 at 2. However, OWRD concluded based on this storage amount that Windhurst was not acting with diligence and good cause in the completion of Permit R 12928, and therefore denied Windhurst's application for extension of time. *Id.*

Windhurst concedes that, were it true that all permit conditions were satisfied and the full 614 AF were being stored under Permit R 12928, it was proper for the application to be denied. Unfortunately, however, Permit R 12928 is not yet applying water to full beneficial use within the

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terms and conditions of the permit. As of right now, Windhurst is capable of storing 553 AF of water from 19 of the 23 reservoirs authorized by Permit R 12928. *Id.* While Windhurst may not be currently capable of storing the full quantity of water allowed by Permit R 12928, Windhurst has exercised diligence towards obtaining full storage and had good cause for submitting an application for extension of time. Windhurst's application described the progress which had been made towards Permit R 12928, the financial expenditures which had gone into the permit, the financial hardships Windhurst had faced in bringing the Permit to full completion, the delay which had resulted from the passing of three prominent landowners affected by the Permit, and the hardship which would result if Windhurst was unable to apply Permit R 12928 to its full beneficial use. *See* Exhibit 1. For the reasons provided below, Windhurst's application therefore demonstrated good cause and Windhurst respectfully requests reconsideration of the Final Order.

III. ARGUMENT & GROUNDS FOR RECONSIDERATION

Windhurst asserts that the Final Order should be reconsidered and withdrawn for two reasons. First, irrespective of Windhurst's mistaken representation in their application, the application did demonstrate that Windhurst had exercised diligence towards the completion of Permit R 12928 and had good cause to request the extension. That Windhurst was capable of storing 553 AF at the time of the Application, as opposed to the 614 AF authorized by Permit R 12928, is not indicative of Windhurst's lack of diligence. Therefore, Windhurst respectfully requests that the extension be granted. Second, Windhurst's protest of the proposed final order, and subsequent communications with OWRD, informed OWRD of the mistaken representation in the application and raised fact issues illustrating diligence and good faith. In light of that protest and those fact issues, Windhurst respectfully asserts that OWRD should allow for a contested case hearing to resolve any lingering issues which are preventing OWRD from granting Windhurst's

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application for extension of time. For these two reasons Windhurst requests that the Final Order be reconsidered.

A. An Extension of Permit R 12928 is Warranted by Windhurst's Good Cause.

Now that the parties both recognize that Windhurst has not applied Permit R 12928 to its full beneficial use (as was mistakenly stated in the extension application and resultant proposed final order), it should be seen that Windhurst has good cause to request an extension of time.

An application for extension of time shall be granted where the applicant submitted a complete application, began construction on the project within the time period required by statute, the applicant can complete the project within the time period requested for extension, and there is good cause to approve the extension. OAR 690-315-0040. The Final Order here is based entirely on the good cause element (*see* Exhibit 4 at 2), and therefore Windhurst's good cause will be the focus of this Petition.

OWRD's "good cause" standard requires the consideration of many factors, including but not limited to:

> (a) Whether the applicant has demonstrated reasonable diligence in previous performance under the permit;
> (b) The cost to appropriate and apply the water to a beneficial purpose;
> (c) The good faith of the appropriator;
> (d) The market for water or power to be supplied;
> (e) The present demands for water or power to be supplied;
> (f) The income or use that may be required to provide fair and reasonable returns on investment;
> (g) Whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection the right;
> (h) Any unforeseen events over which the water right permit holder had no control and which delayed development under the permit;
> (i) Whether denial of the extension will result in undue hardship to the applicant and that there are no other reasonable alternatives exist for meeting water use needs; and
> (j) Any other factors relevant to a determination of good cause.

Id. "Reasonable diligence" under subsection (a) has its own factors to be considered, which are:

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(a) The amount of construction completed within the time allowed in the permit or previous extension;
(b) The amount of beneficial use made of the water during the permit or previous extension time limits;
(c) Water right permit holder conformance with the permit or previous extension conditions; and
(d) Financial investments made toward developing the beneficial water use.

Id. The "market and present demand for water" also has its own factors, which are:

(a) The amount of water available to satisfy other affected water rights and scenic waterway flows;
(b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);
(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;
(d) Economic investment in the project to date;
(e) Other economic interests dependent on completion of the project; and
(f) Other factors relevant to the determination of the market and present demand for water and power.

Id.

When all of these factors are considered, it is clear that Windhurst has good cause to request the extension. Focusing first on diligence, Windhurst has completed 19-of-23 reservoirs approved pursuant to Permit R 12928, and is capable of storing 90 percent (553 AF) of the water approved by the permit. *See* Exhibit 10. Beyond that, since the last extension Windhurst has dug the Manicke Reservoir, finished the Bee Sting Reservoir, enlarged Sherer reservoirs #1 and #2, installed water meters, and staff gauges, run water lines, and more. Exhibit 1 at 7. Factors (a) and (b) regarding reasonable diligence thus support an extension. Windhurst has also made significant financial commitments towards the completion of Permit R 12928. The work accomplished during the last extension period cost around $60,000, and the cost of the project to date is just under $1.7 million. *See* Exhibit 1. All told, Windhurst has completed a substantial amount of the construction necessary to fully satisfy Permit R 12928, and has made significant financial commitments towards

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that end. Therefore, the diligence factors described in OAR 690-315-0040 have been satisfied.

Beyond diligence, the other "good cause" factors described in OAR 690-315-0040 are present and satisfied here. Noted above, the cost of developing Permit R 12928 thus far has been around $1.7 million. *Id.* at 7. The landowners who will use the water stored under this permit have invested around $2,000,000 in the project. *Id.* at 10. There is a demand for this water because landowners have been developing cranberry bogs to be used under Permit S 53703 which will be unusable unless they are authorized to store the full duty of water under Permit R 12928. *Id.* at 11-12. Multiple family farms depend on the storage of water under Permit R 12928 for their livelihood of cranberry farming. Without this storage, producing and harvesting cranberries will be impossible and their businesses and way of life may fail. *Id.*

The water right file for Permit S 53703 further reveals that the cranberry farmers relying on Permit R 12928 will not be able to get water anywhere else to satisfy Permit S 53703. Prior to the permit applications there was serious concern about water availability in Bill Creek, Bear Creek, and the Coquille River, which resulted in the need for additional storage. *See* Exhibit 8; Exhibit 9. Permit S 53703 originally sought water from these sources in addition to water stored under Permit R 12928, but pursuant to a settlement became limited to the 614 AF stored under Permit R 12928. *Id.* If Windhurst's application for extension of time is denied and they are prohibited from applying Permit R 12928 to full beneficial use, the cranberry farms reliant on this storage will be unable to receive replacement water from another source.

Windhurst has also had development of Permit R 12928 delayed by the Oregon Department of Fish and Wildlife's requirement that the point of diversion be moved and improved. Exhibit 1 at 11. Additionally, three original landowners affected by Permit R 12928—W. Scherer, R. Haga, and F. Richert—have passed away since 2010. *Id.* A significant portion of the work which needed

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to be completed (and was completed) during the last extension cycle affected Sherer and Haga's properties. *Id.* at 7. Of the 23 reservoirs to be completed under this permit, four were Haga reservoirs, eight were Scherer reservoirs, and five were Richert reservoirs. The passing of these property owners delayed work on Permit R 12928 significantly. The impact of these property owners' passing cannot truly be understated, as these property owners were intimately involved in this water rights permitting process from its inception, playing key roles in the permits as they exist today. *See* Exhibit 7 (1996 supplement sheet describing each reservoir under permit was sent to R. Haga, W. Scherer, and F. Richert, who had been involved in the permit application process).

Additionally, a sharp decline in cranberry prices between 2012 and 2013, followed by stagnant low prices through 2019 and only a recent price rebound made it exceedingly difficult to develop Permit R 12928. *See* Joseph Raymond, *Too Many Cranberries* (Nov. 25, 2020) https://asmith.ucdavis.edu/news/too-many-cranberries. Nevertheless, Windhurst has done what it could in the last extension period to continue developing Permit R 12928 and applying it to beneficial use, and has made substantial efforts towards completing the permit. As Windhurst's extension application summed up, "[t]his is a very complex and expensive project planned to be developed over a longer period of time than allowed. There are multiple owners covered by this permit with varying timelines for completion. This permit is directly tied to the use [of] permit 2-53703 so it is difficult to separate the costs." Exhibit 1 at 11.

To summarize, over the last extension periods Windhurst took great effort to develop Permit R 12928 despite significant challenges resulting from depressed cranberry prices, the passing of property owners involved in the permit development process, changes in property ownership resulting from those owners' passing, and more. Windhurst's property owners are heavily reliant on the continued development of Permit R 12928 so that they can store the

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maximum quantity of water (614 AF), which can then be applied to beneficial use under Permit S 53703. Without this storage Windhurst will be unable to find replacement water for the unsatisfied duty under Permit S 53703. Ultimately, these facts were sufficient to warrant an extension of time for Permit S 53703. Windhurst respectfully asks that OWRD recognize the same for Permit R 12928.

Windhurst submits that OWRD was correct in its proposed final order, which found that Windhurst had demonstrated: (1) "evidence that progress of physical work, enough to qualify as the minimum necessary, has been made towards completion of the water system for the Department to find good cause and reasonable diligence towards complete application of water to a beneficial use"; (2) "compliance with permit conditions"; (3) an "investment towards the development of Permit R-12928"; and (4) "reasonable diligence in previous performance under Permit R-12928." *See* Exhibit 2. Windhurst respectfully disagrees that the Final Order correctly reversed the proposed final order regarding these factors based on Windhurst's current storage capacity of 553 AF. *See* Exhibit 4. Windhurst has exercised diligence in the development of its current storage capacity, including substantial improvements over the past extension period, and believes that the current storage capacity, standing alone, is not indicative of Windhurst's lack of diligence and good cause supporting their application for an extension.

Windhurst acknowledges that the confusion regarding whether Permit R-12928 was already put to full beneficial use at the time of the application for extension of time was a, if not the, leading factor in the denial of their application. Windhurst hopes that OWRD may be willing to put this confusion behind them and recognize Windhurst's diligence in seeking to complete Permit R-12928, and good cause reasons for applying for their extension of time. Given the facts of this matter, which satisfy the factors noted in OAR 690-315-0040, Windhurst respectfully

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asserts that good cause supports their application for extension of time, and requests that OWRD reconsider its final order and grant their extension application.

B. A Contested Case Proceeding Could Clear Up Any Remaining Confusing Facts and Concerns.

To the extent OWRD may still have some concerns regarding Windhurst's application for extension of time, or may still be confused regarding the facts necessitating the extension, Windhurst respectfully requests that OWRD reconsider its decision not to hold a contested case on this matter.

OAR 690-315-0060(3) allows OWRD to hold a contested case on an application for an extension of time where the applicant has submitted a protest. The decision to hold a contested case is within OWRD's discretion, and is appropriate where a protest raises significant disputes relating to the proposed agency action. *Id.*

Here, Windhurst's protest and subsequent communications with OWRD attempted to clarify the confusions which had resulted in the proposed final order. *See* Exhibit 5; Exhibit 6. OWRD elected not to provide an opportunity for a contested case, and denied the application for extension of time following the protest. Given the denial, it appears that OWRD may have still had concerns or misunderstandings regarding Windhurst's diligence and good cause. OWRD may still have these same concerns or misunderstandings in light of this Petition for Reconsideration. If so, Windhurst suggests that a contested case hearing may be warranted to clear up these issues before reaching a new decision on the application for an extension of time.

III. CONCLUSION

Windhurst appreciates OWRD's consideration of this Petition for Reconsideration. Windhurst sincerely hopes that this Petition provides clarity to some of the confusing facts which may have contributed to OWRD's Final Order. If OWRD has any further questions or concerns

regarding Windhurst's application for extension of time and this Petition for Reconsideration, please feel free to direct any communications to Windhurst's undersigned counsel. With these factual issues hopefully now resolved, Windhurst submits that their application for extension of time is supported by good cause. For the reasons described herein, Windhurst respectfully requests that this petition be granted, and their application for extension of time be approved.

Dated this 25th day of August, 2023.

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CAROLLO LAW GROUP
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Roseburg, OR 97471
Ph: (541) 957-5900

Attorneys for Petitioner

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Application for Extension of Time for a Water Right Permit (NON-Municipal/NON Quasi-Municipal water Use)

OREGON WATER RESOURCES DEPARTMENT

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

Criteria for a Permit Extension of Time

The Department can accept requests for an extension of time on permits to (1) complete construction, and/or to (2) apply water to beneficial use.

In order to approve a permit extension request the Department must be able to find:

1) **Construction has begun:**

   A. **For Groundwater Permits**
   Construction of the well(s), *authorized by the permit*, began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

   B. **For Surface Water or Reservoir Permits**
   Construction of the water system began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

The Department will also confirm that:

2) If required, a fish screen, fish passage or fish by-pass device was installed before or prior to diversion of any water. An exception to the need to confirm installation prior to diversion of any water would be a waiver submitted to the Department from ODFW stating that a fish screen, fish passage or fish by-pass device was not required, provided your permit allows for a waiver.

If you have questions, please call the Department at (503)-986-0900 and ask to speak with a permit extension specialist.

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OREGON WATER RESOURCES DEPARTMENT

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

A separate extension application must be submitted for each permit as per OAR 690-315-0020(2).

I, Windhurst road watering corp.
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

Po box 1832 Bandon OR 97411
ADDRESS CITY STATE ZIP

541-297-6292 JKcranberries@yahoo.com
PHONE E-MAIL ADDRESS

the permit holder of: Application Number R- 69708

Permit Number R-12928
[OAR 690-315-0020(3)(b)]

do hereby request that the date by which the water development will be completed and water put to full beneficial use, which time now expires on Month: October **Day:** 01 **Year:** 2019 **, be extended to October 1,** 2024 **,** *[OAR 690-315-0020(3)(i)]*

I am the permit holder, and may apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

Scott Vierck 6/9/2021
Signature **Date**

Scott R. Vierck chairman
Printed Name **Title**

The agent below is authorized to represent the applicant in all matters relating to THIS application. SRV
Permit Holder Initials

Authorized Agent (Print Agent Name) **Agent contact**

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Before submitting your Application for Extension of Time, make sure the following items are included:

- This completed Application for Extension of Time.
- Statutory fee of $670
- Signature page (Second page of this Application for Extension of Time).
- Letter granting an agent authority to act on behalf of the permit holder (*if applicable*)
- All supporting documentation and/or evidence referenced in the Application for Extension of Time. (ODFW Fish screen approval or waiver, contract for stored water, etc)

MAIL COMPLETED APPLICATION
along with the Supporting documents and/ or evidence and correct fee to:

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Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

GENERAL TIPS:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form.** The correct form is APPLICATION FOR EXTENSION OF TIME FOR MUNICIPAL AND QUASI-MUNICIPAL WATER USE PERMITS.

- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.

- A separate APPLICATION FOR EXTENSION OF TIME must be submitted for each permit. OAR 690-315-0020(2).

- Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at the State of Oregon, Secretary of State Website. To be granted an extension of time, the Department must make four specific findings; 1) the application is complete, 2) construction of the water system began, 3) there is good cause, and 4) the project can be completed within the time being requested. If the Department cannot make all four findings, the extension of time cannot be approved.

- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 690-315-0020(3)(n).

- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights Services Division.

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- An Application for an Extension of Time will be reviewed for completeness. A response is required for each item contained in the application. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- **The water right permit.** If needed, a copy of the water right permit can be downloaded from the Department's Website, or, a copy of the permit may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).

- **Previous Applications and Orders.** Copies of previous applications and orders that may inform the completion of the Application for Extension of Time, if available, may be downloaded from the Department's Website. **NOTE: If the document requested is not available on the Department's website, you may be required to submit a Public Record Request.**

- **Documentation which demonstrates compliance with permit conditions** (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Questions to complete this application for an Extension of Time
Please see the instruction sheet to help you answer these items.

1. **Beginning Construction within required deadlines.** OAR 690-315-0020(3)(d)

For Groundwater Permits

Has construction of the point of appropriation (well) authorized under this permit begun?
☐ Yes ☐ No

Date construction began Month:__ Day:__ Year:____

Details of construction and attach documentation: _____

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For Surface/Reservoir Permit

Has construction of the water system begun? ☒ Yes ☐ No

Date construction began Month:__ Day:__ Year: 1998

Details of construction and attach documentation: begin construction of Windhurst Reservoir

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OAR 690-315-0020(3)(A)(e)(A)

2a. Permits typically contain standard or special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column are contained within it. Using the extra row labeled "other" to specify any other additional conditions included in the permit, or specified in a final order approving a permit amendment or prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check "Yes" if you have completed or met the permit condition. Check "No" if the condition is not yet satisfied. In the 4th column, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation. Note: a pump test condition does not need to be addressed here however; you must submit the results of the test to the Department for approval prior to certification.

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CHART-A

Permit Conditions in this Permit		Have Completed or Met?	Date satisfied/ or will be satisfied
Checkbox	Ground water Check those included on this permit		
☐	Installation of a meter/totalizing flow meter	☐ Yes ☐ No	
☐	Submittal of annual water usage report	☐ Yes ☐ No	
☐	Submittal of initial static water level measurement	☐ Yes ☐ No	
☐	Submittal of annual static water level measurements in the month required	☐ Yes ☐ No	
☐	Submittal of Seven consecutive static water level measurements in the month required	☐ Yes ☐ No	
☐	Special well construction standards	☐ Yes ☐ No	
☐	Submittal of a monitoring plan	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
	Surface Water or Reservoir		
☒	Installation of a meter/ totalizing flow meter	☒ Yes ☐ No	2001
☒	Submittal of annual water use report	☒ Yes ☐ No	2001
☒	Installation of a fish screen	☒ Yes ☐ No	2002
☐	Installation of a fish by-pass device	☐ Yes ☒ No	NA
☐	Installation of a fish passage	☐ Yes ☒ No	NA
☒	Installation of an outlet gate/pipe/ conduit	☒ Yes ☐ No	1999
☒	Submittal of a letter from ODFW that fish screen, fish by-pass device, and or fish passage is not required	☒ Yes ☐ No	2002
☒	Submit as-built plans and specification	☒ Yes ☐ No	
☒	Submittal of a letter from an engineer prior to storage	☒ Yes ☐ No	2002
☒	Other (Specify): outlet cycled each year	☒ Yes ☐ No	2002
☒	Other (Specify): staff gages installed in all constructed reservoirs	☒ Yes ☐ No	2015
☒	Other (Specify): weir and staff gage installed on Bill Cr.	☒ Yes ☐ No	1998
☒	Other (Specify): staff gage installed on Bear Cr.	☒ Yes ☐ No	2000

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2b. If you have identified that you have NOT complied with Permit conditions, explain the reasons why and indicate a date certain, when you will be in compliance.

[OAR 690-315-0020(3)(e)]

3. Provide evidence of physical work made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B); and if applicable, within the time period of the most recent extension granted (CHART-C). CHART-B (below) must be completed for all Application for Extension of Time requests. *Use chronological order.* Itemize each work item, and do not combine multiple work actions in one area. (Planning, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land, or planting crops ***is not*** *considered work in the development of the water system.* ***Work accomplished under other water rights may not be considered work under this permit.***)

CHART-B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED *List any work done before the permit was issued – eg. well drilled.*	COST*
	See attachment B	1,600,000
DATE	**WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER** *List work/actions done during the permitted time period.*	**COST***
10/10/2000	**Date the permit was signed** - find date above signature on last page of permit.	
10/10/2001	Date by which actual construction work shall begin	
2001	Install pump, electrical & valves for Windhurst Reservoir	12,050
2001	Partial excavation of Haga Res. #1	4,000
2002	On site geologist during filling of Windhurst Reservoir	7,900
2002	Fish screen installed on Bill Creek	2,617
2004	Partial excavation of Scherer Res. #2	4,000
10/1/2005	**Date the permit specified complete application of water to the use shall be made**- all permits contain this date.	
DATE	**WORK ACCOMPLISHED AFTER the date the permit specified complete application of water and prior to any previous extension order** *COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR AN EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.*	**COST***
	Total Cost for Chart-B	1,630,567

*** If exact cost is not known, you must provide your best estimate.**

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4. If this is not your 1st Application for Extension of Time request, fill out CHART-C below in addition to CHART-B above. *Use chronological order.*

CHART-C

DATE	WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD *List all work done during the last authorized extension period.*	COST*
10/1/2014	"Extended From" date for complete application of water used in the most recent Final Order on Extension of Time.	
2014-2019	Manicke – Extension to 50% of ponds to finish	10,000
2014-2019	Scherer – install staff gages after 2014 harvest, Enlarge Res. #1 & #2	10,000
2014-2019	Haga – install staff gages after 2014 harvest, Complete Bee Sting Res.	10,000
2015	Install new water meters	3,600
2015	Install staff gages for Haga and Scherer	2000
2015	Finish Bee Sting Reservoir	10,000
2017	Run water line to Bee Sting Res.	6,500
2018	Dig Manicke Reservoir	7,800
10/30/2019	"Extended To" date for complete application of water resulting from the most recent Final Order on Extension of Time.	
DATE	WORK ACCOMPLISHED AFTER THE LAST EXTENSION PERIOD EXPIRED *List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.*	COST*
1/20/2020	Replace Bill Creek pump	5000
2/5/2020	Install pump protection	3,900
	Total Cost of Chart-C	68,800

* If exact cost is not known, you must provide your best estimate. [OAR 690-315-0020(3)(f)]

5. Cost of project to date: 1,699,367+

(The total combined cost from CHART-B and CHART-C) [OAR 690-315-0020(f)]

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[OAR 690-315-0020(3)(e)(B)]

Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit made to date.

TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

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6. For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

TIP: Report the rate in the same units of measurement as specified in the permit.

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Maximum rate used to date = _____ cfs (cubic feet per second) *or,*

Maximum rate used to date = _____ gpm (gallons per minute) *or,*

Maximum volume of stored water used to date = or,

Maximum volume stored annually to date = approximately 614 AF

7. For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as Identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment?	Maximum instantaneous rate used to date from this well - - under this permit only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total instantaneous rate from all wells utilized under this permit								

8. Has a Permit Amendment Application been filed? Yes ☐ No ☒

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If yes, identify Transfer No. T-_____

[OAR 690-315-0020(3)(e)(C)]

9. For Irrigation and Nursery Use Permits Extensions

Provide the total number of acres irrigated to date under this permit.

a) Total acres irrigated to date: _____

b) List by year, the number of acres irrigated each year since permit issuance.

Year	Acres	Year	Acres	Year	Acres

c) Provide a copy of the application map identifying the acres irrigated.

d) Please specify the number of acres irrigated by each Point of Diversion/Point of Appropriation (POD/POA).

(POD/POA)#_____ Acres_____ (POD/POA) #_____ Acres_____

(POD/POA) #_____ Acres_____ (POD/POA) #_____ Acres_____

[OAR 690-315-0020(3)(i)(j)]

10. In the chart below provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2021-2026	Bills Creek LLC to construct and consolidate reservoirs, construct new bogs	275,000
2021--2022	Complete New diversion from Bill Creek in Cooperation with ODF&W	70,000
Year:	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
	Total Cost	345,000

[OAR 690-315-0020(3)(g)]

11. Estimated remaining cost to complete the project: 345,000

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(The total cost from CHART-E)

[OAR 690-315-0020(3)(j)]

12. Provide a summary of your plan to complete construction, meeting all permit conditions and apply the water to beneficial use: *(List all tasks or steps needed to complete the project, the date when each task will be completed, and the cost associated with each task; attach additional pages if necessary.)* All conditions of permit are currently met. Reservoirs to be constructed or enlarged by 2028

[OAR 690-315-0020(3)(k)]

13. Justify the time requested to complete the project and/or apply the water to full beneficial use. *(Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.)*
The project is designed to take longer to complete than the permit allowed due to the size of acreage and owners involved. Ownership of properties in the permit have changed hands. Increase in expenses and fluctuating costs of cranberries have made the project more difficult to complete. Cranberry prices have risen recently which will help move the project forward. See also #16 below

[OAR 690-315--0020(3)(l)

14a. Will a denial of the extension result in undue hardship? *(Describe the hardship and the effects.)* There are multiple family farms covered under this permit and all of them use it. The total investment to date is approximately $2,000,000. These families depend on the income from farming cranberries.

14b. Are there any other reasonable alternatives that exist for meeting your water use needs? *(Explain in detail, consider other potential sources of water, and describe their feasibility)* None There are no other potential sources of water which are feasible for the volume of water that is necessary

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[OAR 690-315-0020(3)(h)

15. Was the delay in the timely completion of this water development project and/or timely application of water to full beneficial use caused by any additional government requirements, other than the conditions contained within the permit, which significantly delayed the completion and perfection of this right? *(Explain in detail, including how much time did this delay the project; list dates.)* Yes. ODF&W has requested improvement to diversion on Bill Creek. We have entered into a cost share project improve the diversion which will move it slightly. Project scheduled to be completed in 2022. This has delayed the possibility doing the COBU.

[OAR 690-315-0020(3)(h)

16. Describe any unforeseen events which contributed to the delay of completion of this project that you had no control over. *(Explain in detail what the unforeseen events were (i.e. health issues, natural disaster) and how much time was spent addressing the unforeseen events.)* Original property owners under this permit, W. Scherer, F Richert and R. Haga have all passed away in the last few years. Ownership of Scherer property has been purchased by Bill Creek LLC.

[OAR 690-315-0020(3)(h)]

17. Describe an additional reasons why the construction was not completed, and/or water was not beneficially used within permit time limits. *(Provide supporting information for the reason(s) that best fits your circumstances.)*
Higher cost of expansion and development coupled with lower cranberry prices

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[OAR 690-315-0020(3)(m)(n)]

18. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.
This is a very complex and expensive project planned to be developed over a longer period of time than allowed. There are multiple owners covered by this permit with varying timelines for completion. This permit is directly tied to the use permit S-53703 so it is difficult to separate the costs.

[OAR 690-315-0040(2)(f)]

19. Will the income or use of the water project provide a fair and reasonable return on your investment? *(Explain in detail)* Yes. Anytime a farmer invests time, income and energy into developing their land there is an expected return on that investment. Cranberry farming is and has been a way of life in this area.

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[OAR 690-315-0040(4)(d)]

20. Describe in detail if there are other economic interest, beyond those of the permit holder, which are dependent upon the completion of this project. *(Who will be effected and how?)* The individual families that farm cranberries under this permit.
The farmers and families in this area support the surrounding communities. We have accounts with and spend money at the local business – fuel companies, equipment suppliers, fabricators, restaurants, etc. all have the potential for impact.

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Attach permit, and documentation to the application

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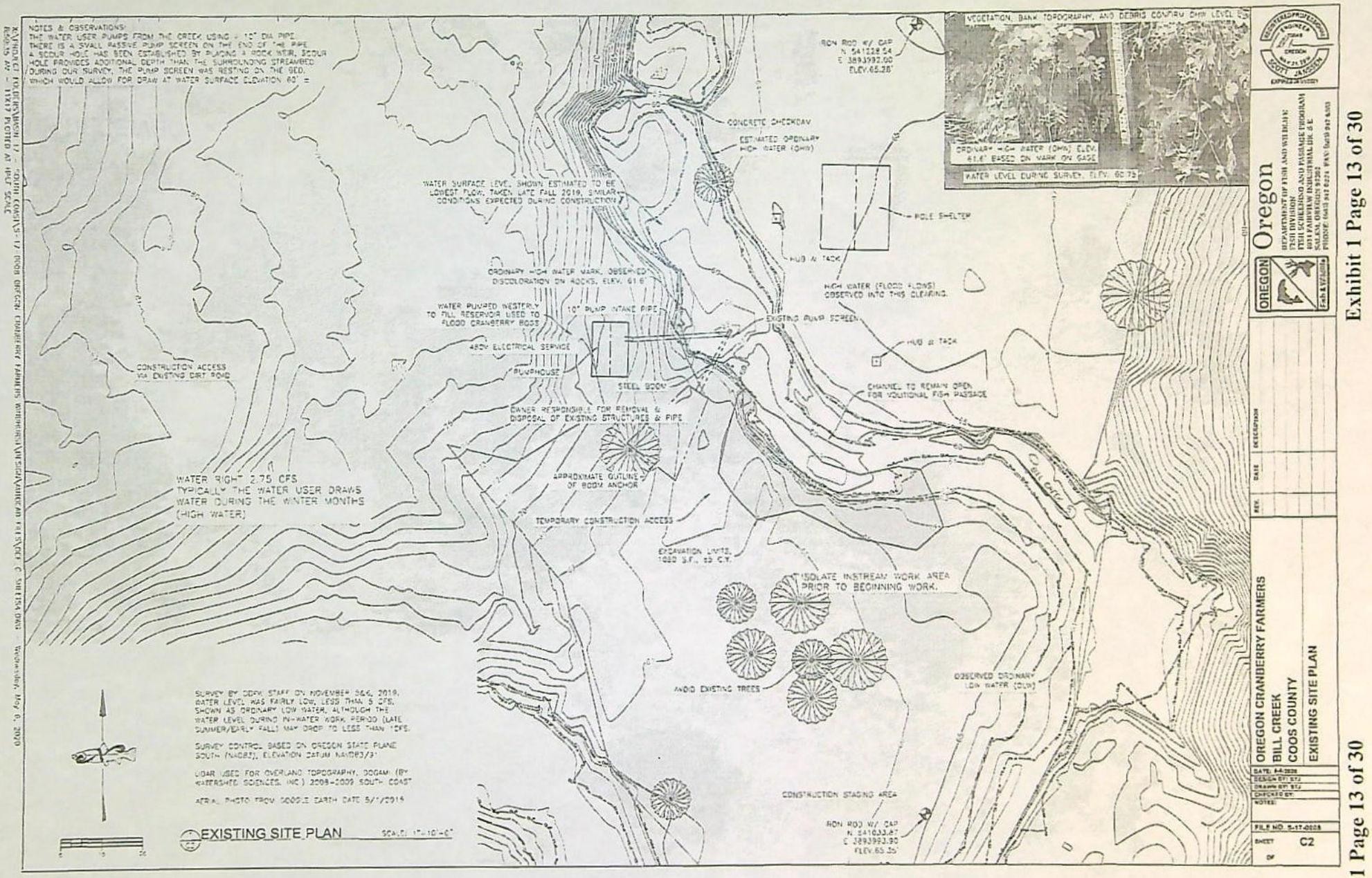

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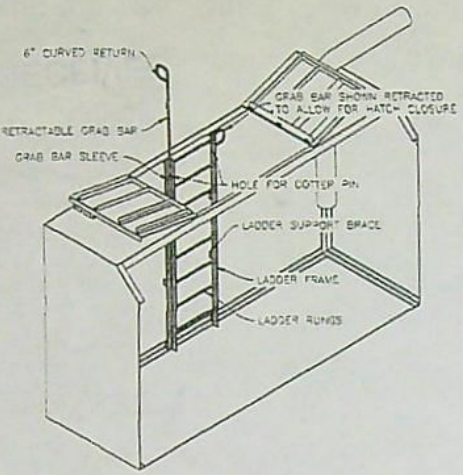
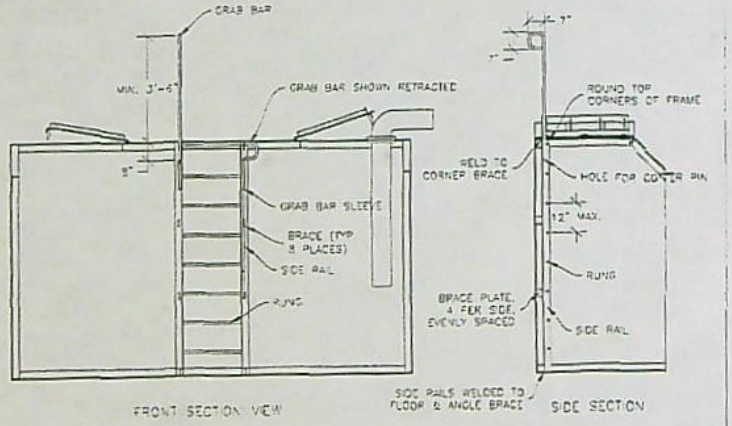
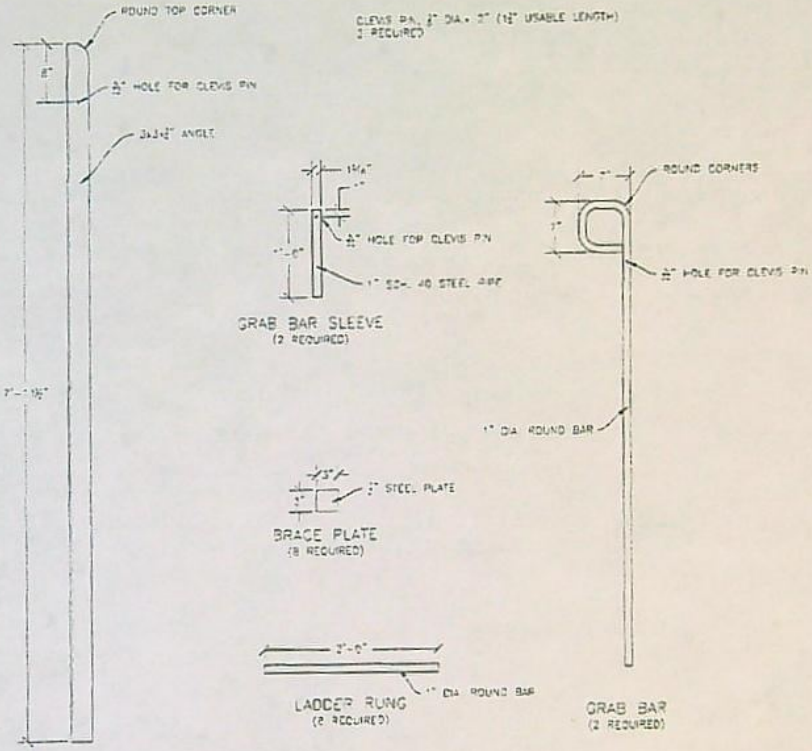


1 S9 LADDER ISOMETRIC VIEW SCALE: N.T.S.



2 S9 LADDER ASSEMBLY SCALE: 3/4"=1'



3 S9 LADDER COMPONENTS SCALE: 1½"=1'-0"

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN
EXPIRES: 06/31/2021

OREGON Fish & Wildlife
Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE (503) 947-6224 FAX (503) 947-6203

REV	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
LADDER

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S9
OF

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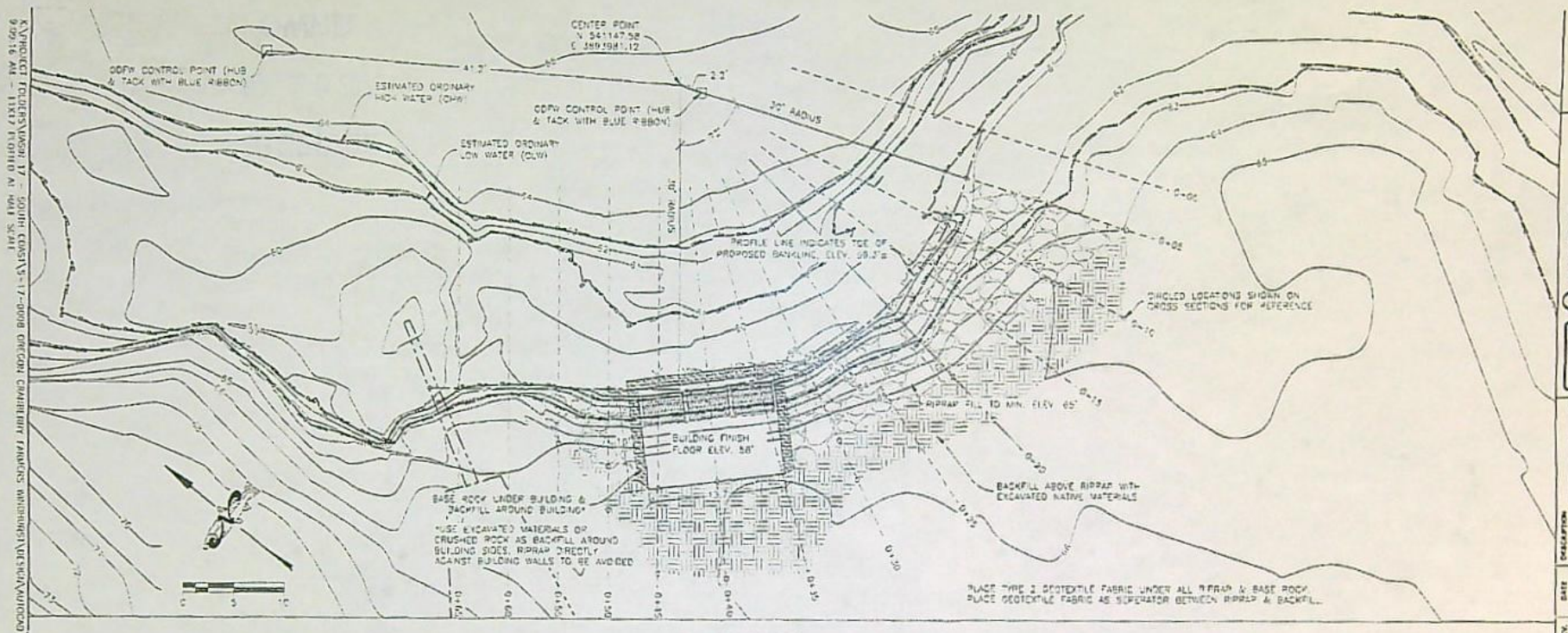
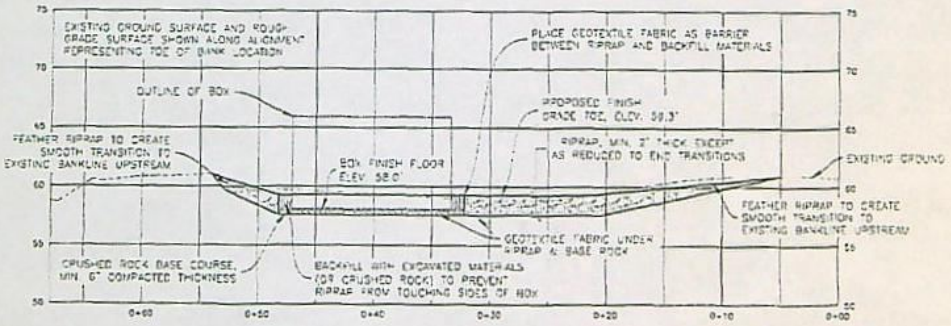
X:\PROJECT FOLDERS\2020\17-0008 OREGON CRANBERRY FARMERS WEIRS\PLANS\DESIGN\AUTOCAD FILES\FISH LADDER MODIFICATIONS.DWG Wednesday, May 6, 2020 9:21:14 AM 11"x17" PLOTTED AT 1/4" SCALE



1 C4 LAYOUT PLAN SCALE: 1"=5'-0"



2 C4 PROFILE ALONG LEFT BANK TOE SCALE: 1"=5'-0"

REGISTERED PROFESSIONAL ENGINEER — OREGON — SCOTT JAMISON — EXPIRES: 12/31/21

OREGON Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6231 FAX: (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
LAYOUT PLAN & PROFILE

DATE: 8-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET C4
OF

K:\PROJECT FOLDERS\WASH\17 - SOUTH COAST\S-17-0008 OREGON CRANBERRY FARMERS WIDENING\ARCH\AUTOCAD FILES\SCT - C-SHEETS.DWG - Wednesday, May 6, 2020 9:59:16 AM - TIMOTHY.HOFFER AT 40x1 SCALE

Exhibit 1 Page 16 of 30

Exhibit 1 Page 16 of 30

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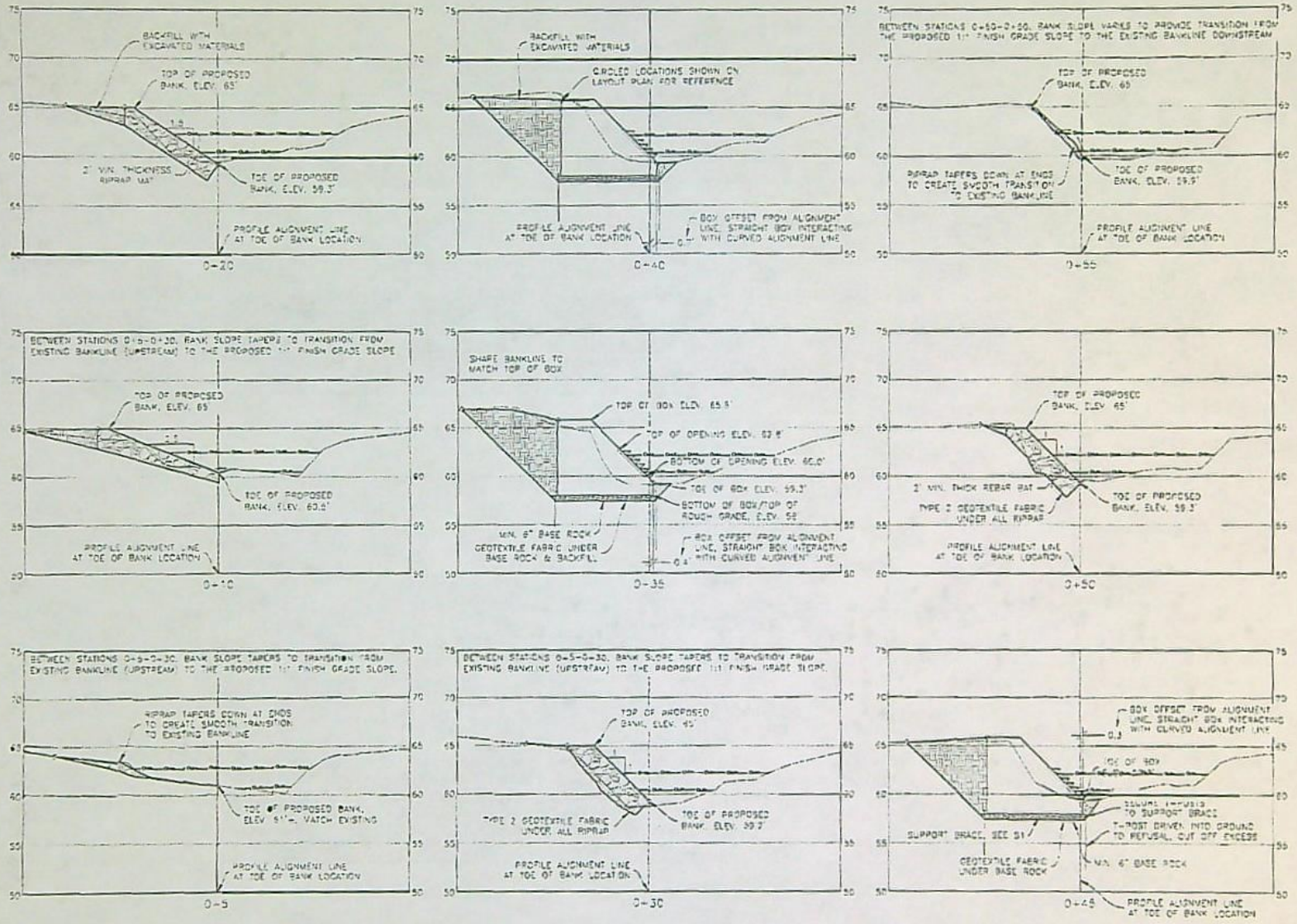

CROSS SECTIONS SCALE: 1"=5'-0"

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
CROSS SECTIONS

DATE:
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0003
SHEET C5
OF

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
7118 BOECKMAN ROAD AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
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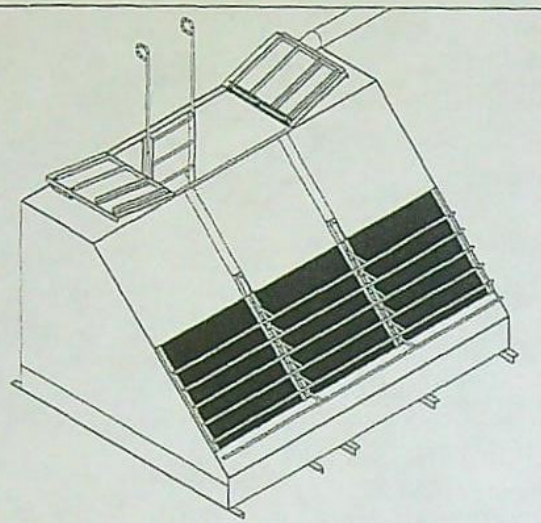
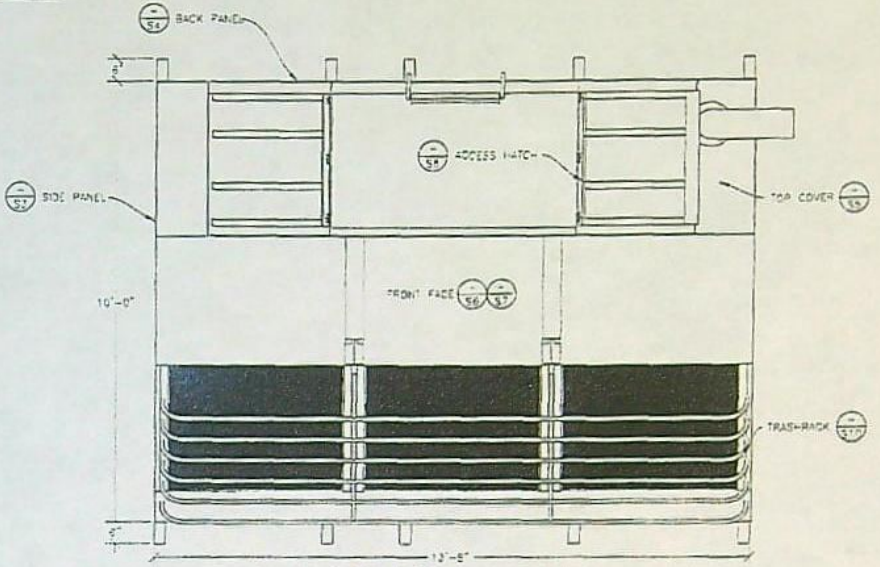
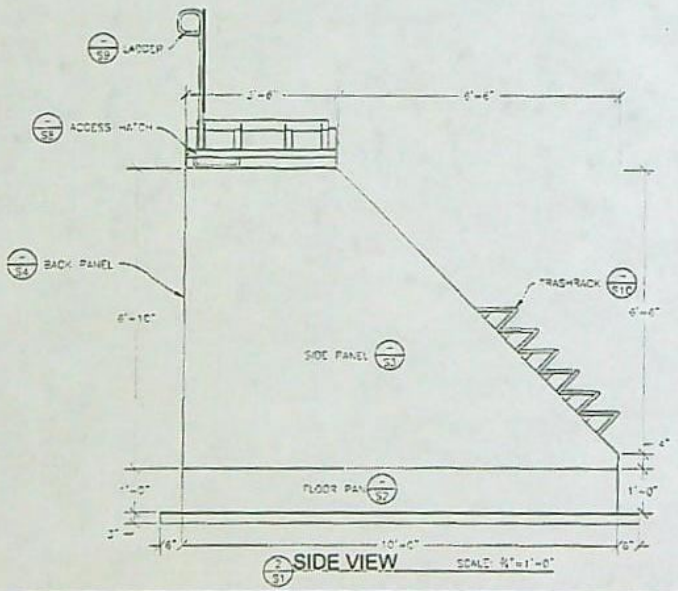


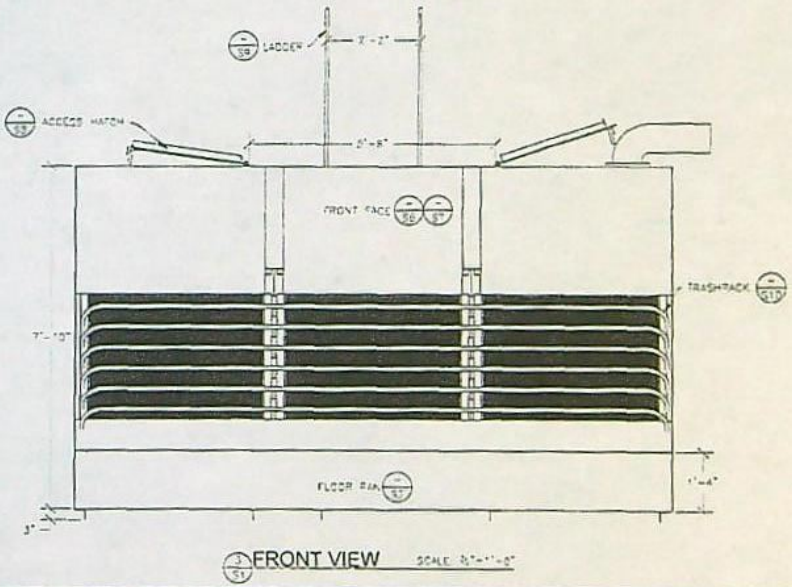
SUMP BOX ASSEMBLY SCALE: N.T.S.



TOP VIEW SCALE: 3/4"=1'-0"



SIDE VIEW SCALE: 3/4"=1'-0"



FRONT VIEW SCALE: 3/4"=1'-0"

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
SUMP BOX

FILE NO. S-17-0008
SHEET S1

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
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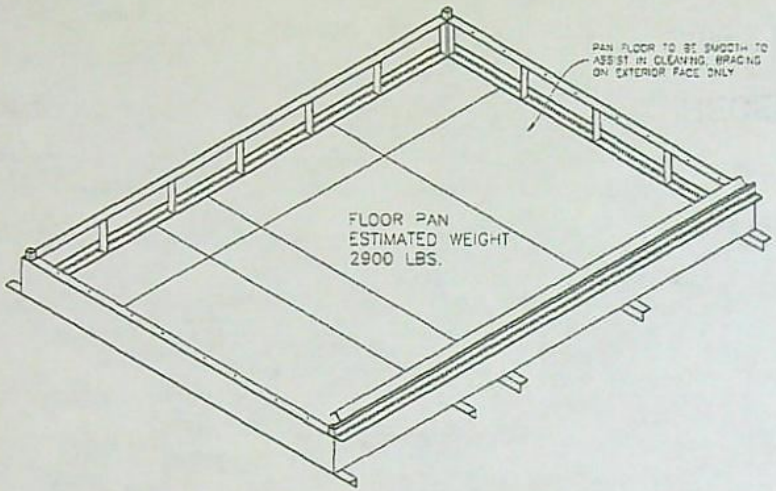
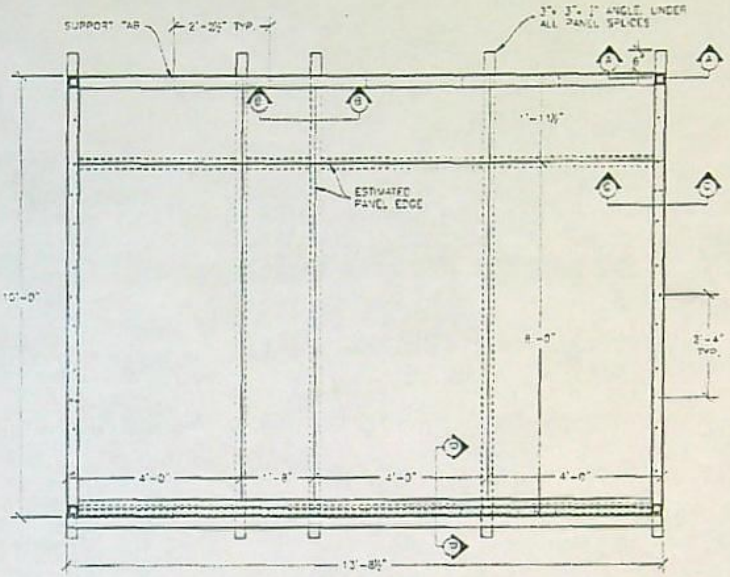
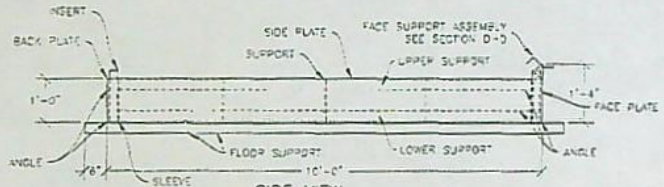


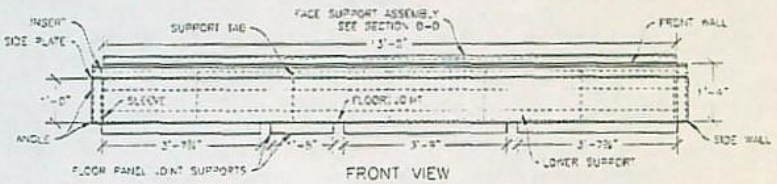
ISOMETRIC VIEW



TOP VIEW

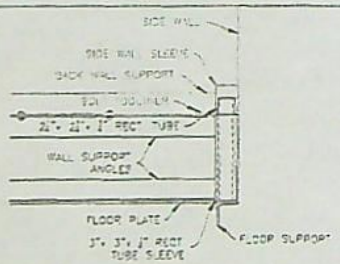


SIDE VIEW

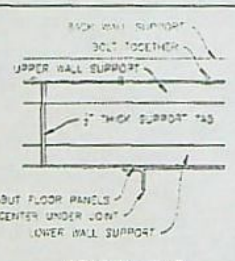


FRONT VIEW

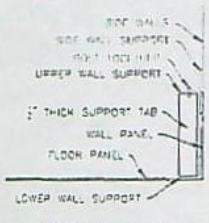
1 / S2 FLOOR PAN SCALE: ½"=1'-0"



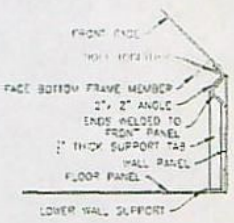
SECTION A-A
CORNER SLEEVE DETAIL



SECTION B-B
FLOOR PANEL SPLICE & WALL SUPPORTS
TYP. OF SIDE WALLS & BACK WALL



SECTION C-C
WALL SUPPORTS

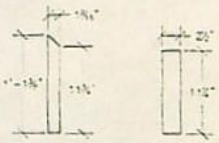


SECTION D-D
FRONT FACE SUPPORT

2 / S2 SECTIONS VIEWS SCALE: 1½"=1'-0"

MATERIALS

3" x 3" x ¼" ANGLE
SIDES - 4 @ 9'-2"
BACK - 2 @ 13'-2"
FRONT - 2 @ 13'-2"
FLOOR - 3 @ 11'-0"
FLOOR - 2 @ 3'-3½"
FLOOR - 1 @ 3'-9"
FLOOR - 1 @ 1'-5"
3" x 2" x ¼" ANGLE
FRONT - 1 @ 13'-2"
¼" STEEL PLATE (AS SHOWN)
FLOOR - 3 @ 4'x 8'
FLOOR - 1 @ 1'-9"x 8'
FLOOR - 3 @ 4'x 1'-11½"
FLOOR - 1 @ 1'-8"x 1'-11½"
SIDES - 2 @ 1'-6"x 10'-0"
FRONT - 1 @ 1'-4"x 13'-8"
BACK - 1 @ 1'-5"x 13'-8"
3" x 3" x ¼" RECT TUBE
SLEEVE - 4 @ 13"
2½" x 2½" x ¼" RECT TUBE
INSERT - 4 @ 1'-2"



SUPPORT TABS ¼" STEEL PLATE

REGISTERED PROFESSIONAL ENGINEER OREGON JULY 21, 1995 SCOTT JANSSEN EXPIRES: 6/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE (503) 947-6221 FAX (503) 947-6203

OREGON Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FLOOR PAN

DATE: 6-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S2
OF

Exhibit 1 Page 19 of 30

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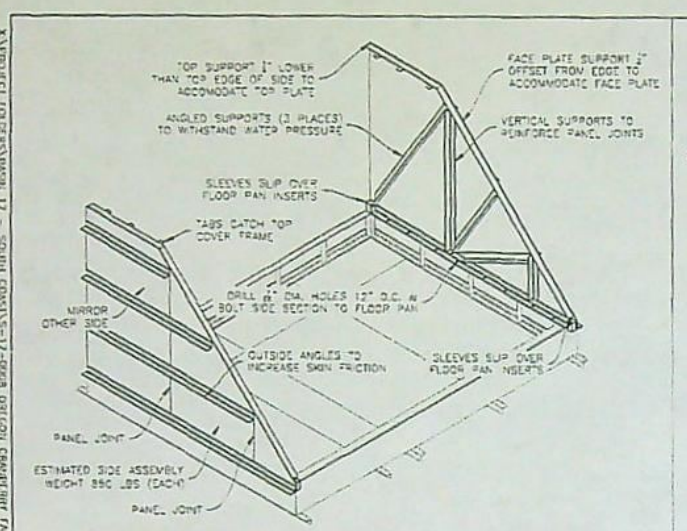
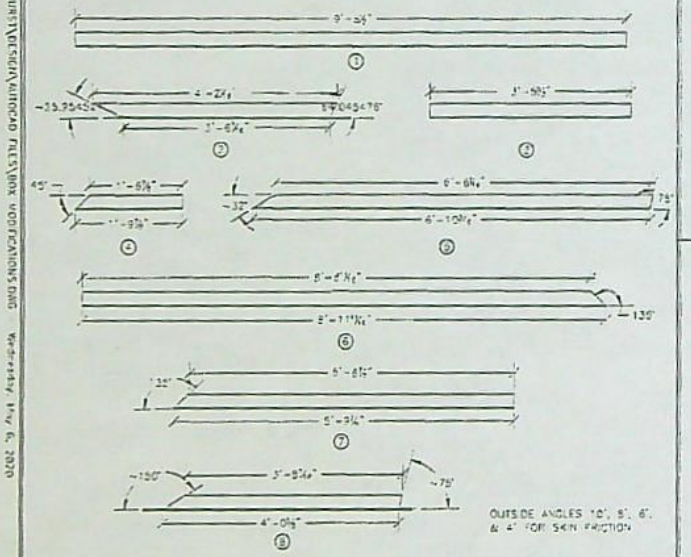
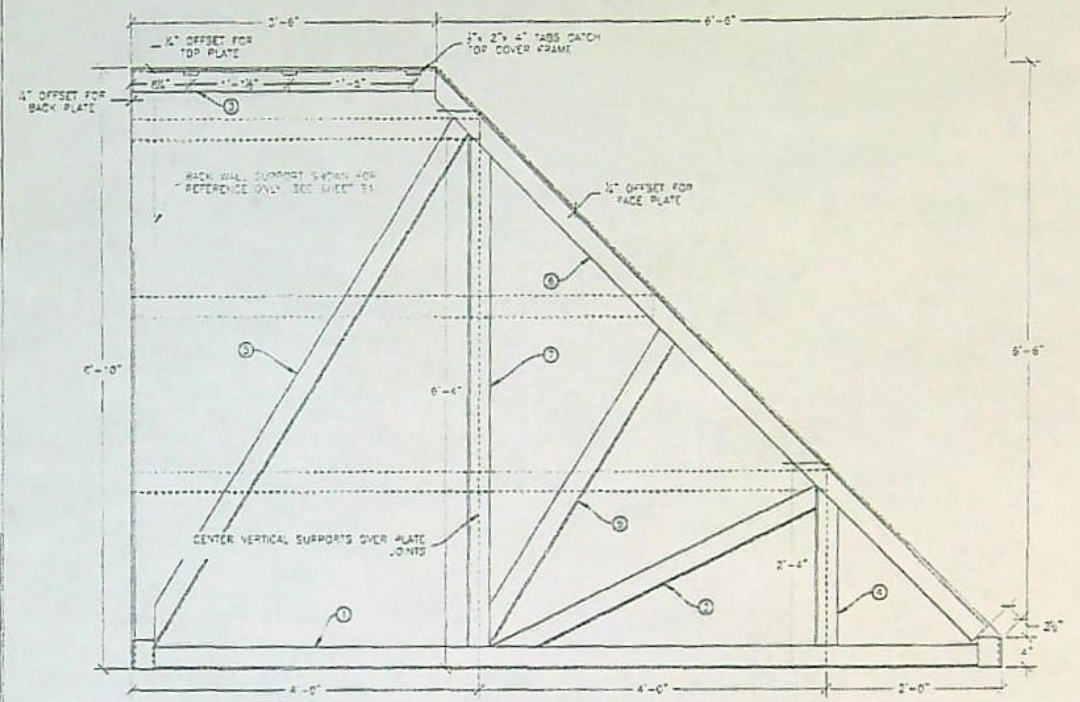
X:\PROJECT FOLDERS\S-17 - SOUTH COAST\S-17-0008 OREGON CRANBERRY FARMERS WASHINGTON\SURVEY\AUTOCAD FILES\WORK MODIFICATIONS.DWG - Wednesday, May 6, 2020 9:20:59 AM - 11X17 PLOTTED AT 1:96.7 SCALE



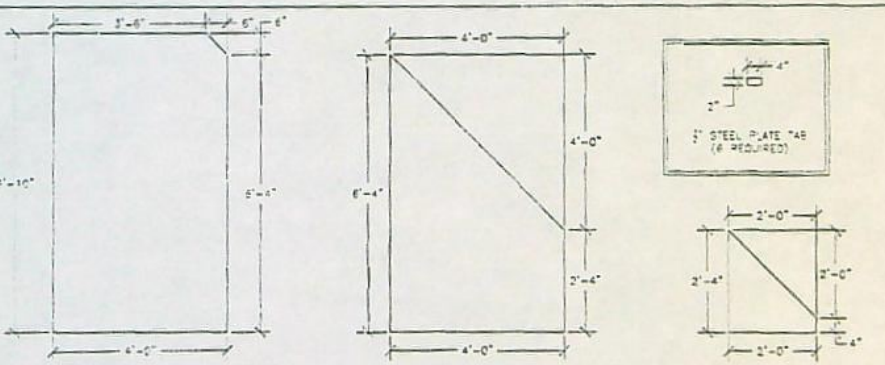
1 S3 SIDE ASSEMBLY SCALE: N.T.S.
SOUTHWEST VIEW



3 S3 SUPPORT MEMBERS SCALE: 1"=1'-0"
* EACH, 3"x 3"x ¼" ANGLE MIRROR FOR OPPOSITE SIDE



2 S3 SIDE PANEL LAYOUT SCALE: ½"=1'-0"
MIRROR OPPOSITE SIDE



4 S3 PANEL MEMBERS SCALE: ¾"=1'-0"
CUT FROM ¾" STEEL PLATE
MIRROR FOR OPPOSITE SIDE

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT A. JAMESON
EXPIRES: 6/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE (503) 947-6201 FAX (503) 947-6203

NO.	DESCRIPTION	DATE

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
SIDE WALLS

DATE: 5-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. 5-17-0008
SHEET S3
OF

K:\PROJECT FOLDERS\5-17-0008 OREGON CRANBERRY FARMERS\WINDSURFER\DRAWINGS\ACAD FILES\5-17-0008 SIDE WALLS.DWG Wednesday, May 06, 2020 9:21:41 AM PDT

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Exhibit 1 Page 20 of 30

1/S4 BACK ASSEMBLY SCALE: N.T.S.
ISOMETRIC VIEW

MATERIALS:
3 @ 6'-10"x 4'-0" PANELS
1 @ 6'-10"x 1'-8" PANEL
1 @ 13'-2" 3x3x¼" TOP SUPPORT
1 @ 13'-2" 3x3x¼" BOTTOM SUPPORT
2 @ 6'-3½" 3x3x¼" SIDE SUPPORTS
3 @ 6'-3½" 3x3x¼" VERTICAL SUPPORTS
2 @ 7'-3⅛" 3x3x¼" ANGLE BRACE
1 @ 7'-4¼" 3x3x¼" ANGLE BRACE
4 @ 13'-8" 3x3x¼" EXTERIOR ANGLES
6 @ 2"x 4"x ¼" TOP SUPPORT TABS

NOTE: LADDER CONNECTS TO BACK WALL SEE SHEET S10 FOR DETAILS

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN
EXPIRES: 12/31/22

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6221 FAX: (503) 947-6201

REV	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
BACK WALL

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. 5-17-0008
SHEET S4
OF

PROJECT FOLDER: 5-17-0008 SCREEN FOR 17 CFS CRYSTAL CRANBERRY FARMERS #1\DRAWINGS\AUTOCAD FILES\BACK WALL\BACK WALL.DWG Wednesday, May 6, 2020 9:21:10 AM 11x17 PLOTTED AT HALF SCALE

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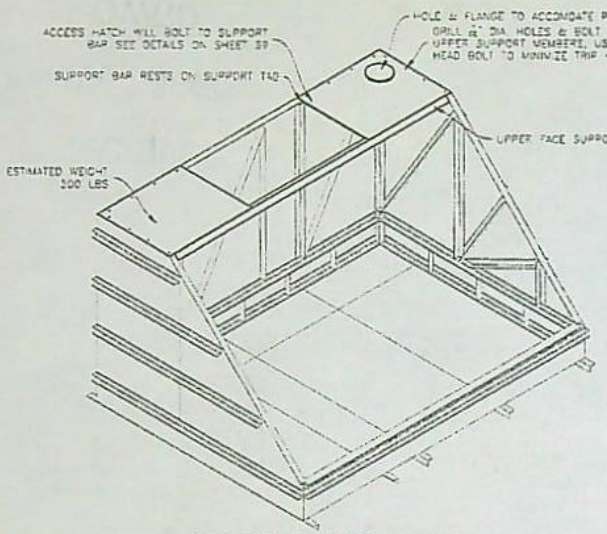
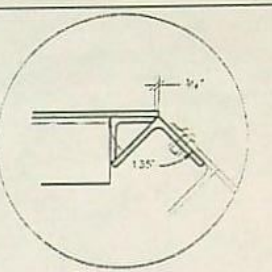
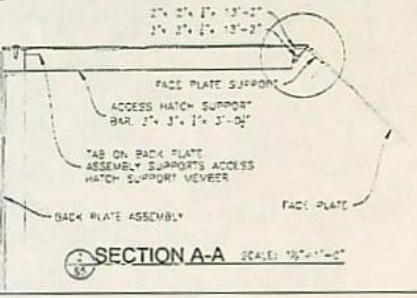


1/S5 TOP ASSEMBLY SCALE: N.T.S.
ISOMETRIC VIEW

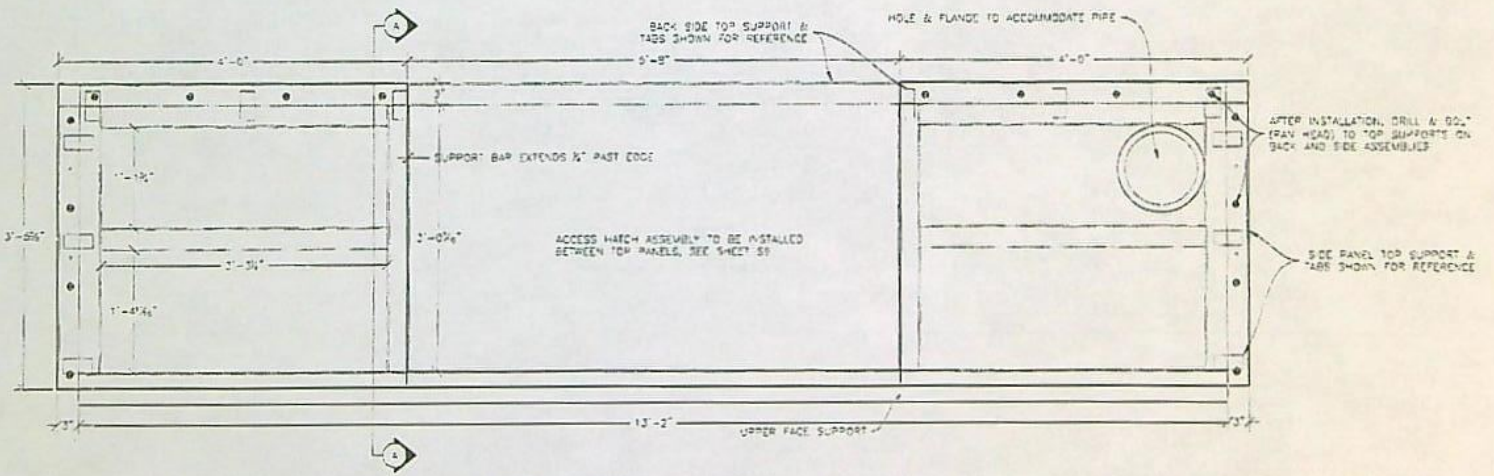
MATERIALS
1 @ 4'-0" x 4'-0" PANEL
1 @ 4'-0" x 4'-0" PANEL WITH PIPE HOLE
1 FLANGE FOR PIPE CONNECTION
4 @ 2'-0½" 3x2x¼" ACCESS HATCH SUPPORT
4 @ 3'-3½" 3x2x¼" ACCESS HATCH SUPPORT
1 @ 13'-2" 3x2x¼" FACE PLATE SUPPORT
1 @ 13'-2" 3x3x¼" FACE PLATE SUPPORT



2/S5 FACE PLATE SUPPORT SCALE: 3"=1'-0"



3/S5 SECTION A-A SCALE: 1½"=1'-0"



1/S5 TOP PANELS SCALE: 1½"=1'-0"
TOP VIEW

REGISTERED PROFESSIONAL ENGINEER
OREGON
MAY 21, 2014
SCOTT JAMESON
EXPIRES: 06/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6230

NO.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TOP COVER

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S5
OF

X:\PROJECT FOLDERS\BACK 17 - SOUTH COOS\S-17-0008 BILL CREEK\DRAWINGS\WINDRIVER\WINDROVED FILES\TOP VIEW.DWG - Wednesday, May 6, 2020 - 9:21:16 AM - 11X17 PLOTTED AT 1INCH SCALE

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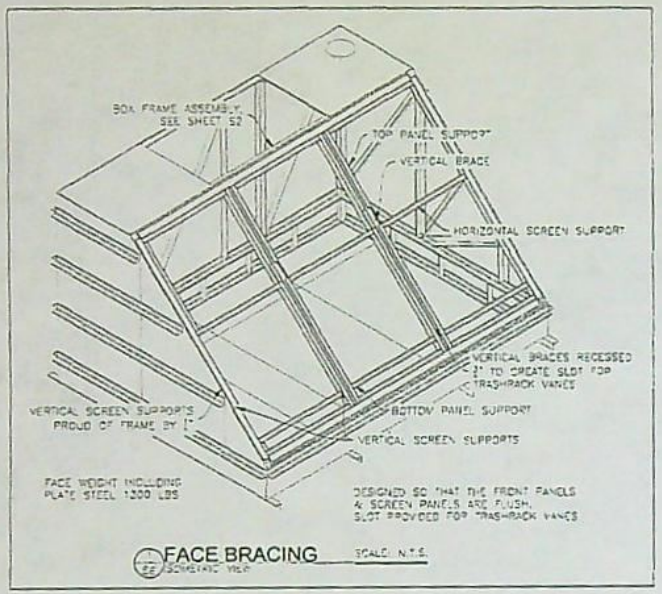
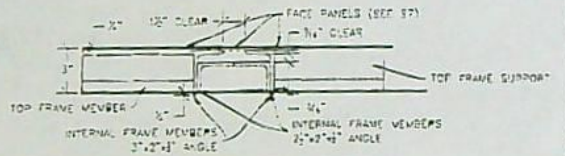
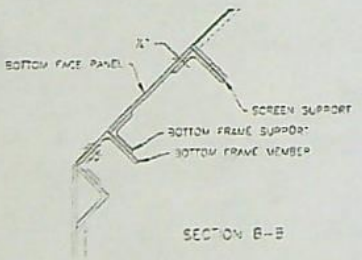


1 FACE BRACING SCALE: N.T.S.
S5 SCHEMATIC VIEW

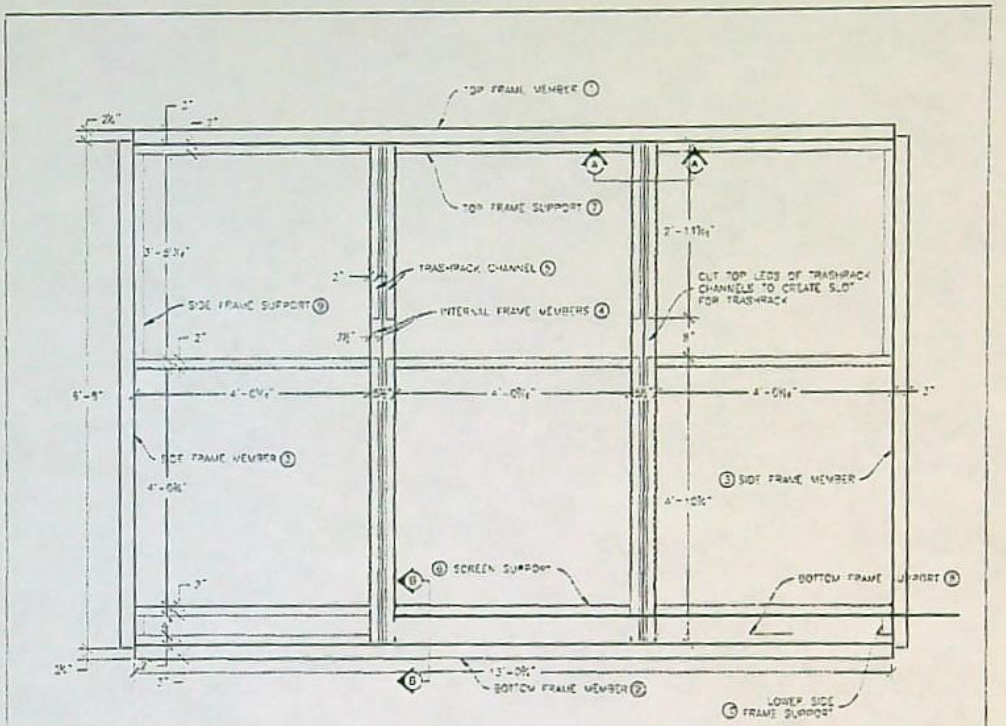


SECTION A-A SAME AT BOTTOM FRAME MEMBER CONNECTION



SECTION B-B

3 SECTION VIEWS SCALE: 3"=1'-0"
S5



2 FACE BRACING LAYOUT SCALE: 1"=1'-0"
S6 TOP VIEW

LABEL	DESCRIPTION	MATERIAL	LENGTH	NOTES
1	TOP FRAME MEMBER	3x3x¼"	13'-0½"	SEE DETAIL 4 ON SHEET S5
2	BOTTOM FRAME MEMBER	3x3x¼"	13'-0½"	SEE SECTION D-D ON SHEET S7
3	SIDE FRAME MEMBERS	3x3x¼"	5'-8"	2 REQUIRED, BOLT TO SIDE FRAME SUPPORTS
4	INTERNAL FRAME MEMBERS	2½x2x¼"	5'-0½"	4 REQUIRED, WELD TOGETHER & TO TOP AND BOTTOM FRAME MEMBERS
5	TRASHRACK CHANNEL MEMBERS	2x3x¼"	3'-6½"	4 REQUIRED, SEE SECTION A-A
6	SCREEN SUPPORTS	2x2x¼"	4'-0½"	6 REQUIRED, SEE SECTION B-B
7	TOP FRAME SUPPORT	2x2x¼"	4'-0½"	3 REQUIRED, 2" LOWER THAN TOP FRAME, TO SUPPORT FACE PANEL
8	BOTTOM FRAME SUPPORT	2x2x¼"	4'-0½"	3 REQUIRED, SEE SECTION B-B
9	SIDE FRAME SUPPORT	2x2x¼"	3'-5½"	2 REQUIRED, 2" LOWER THAN SIDE FRAME, TO SUPPORT FACE PANEL
10	LOWER SIDE FRAME SUPPORT	2x2x¼"	3'-4"	2 REQUIRED, 2" LOWER THAN SIDE FRAME, TO SUPPORT FACE PANEL

½" PLATE WELDED TO FACE BRACING, SEE SHEET S7 FOR PANEL DETAILS

AFTER ASSEMBLY, DRILL FRAME MEMBERS, FACE, AND SUPPORT MEMBERS (TOP, SIDES, & BOTTOM) BOLT USING PAN HEAD SCREWS, WASHERS, & NUT. PAN HEAD ON OUTSIDE FRONT FACE.

REGISTERED PROFESSIONAL ENGINEER OREGON SCOTT JANSSEN EXPIRES: 12/31/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE (503) 947-6231 FAX: (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FACE BRACING

DATE: 9-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S6
OF

XX:\PROJECT FILES\PUSH 17 - SOUTH COAST\S 17 0008 CHETCO CRANBERRY FARMERS WILDLIFE\DESIGN\AUTOCAD FILES\BOX MODIFICATIONS.DWG - Wednesday, May 6, 2020
9:21:22 AM - 11X17 PLOTTED AT HALF SCALE

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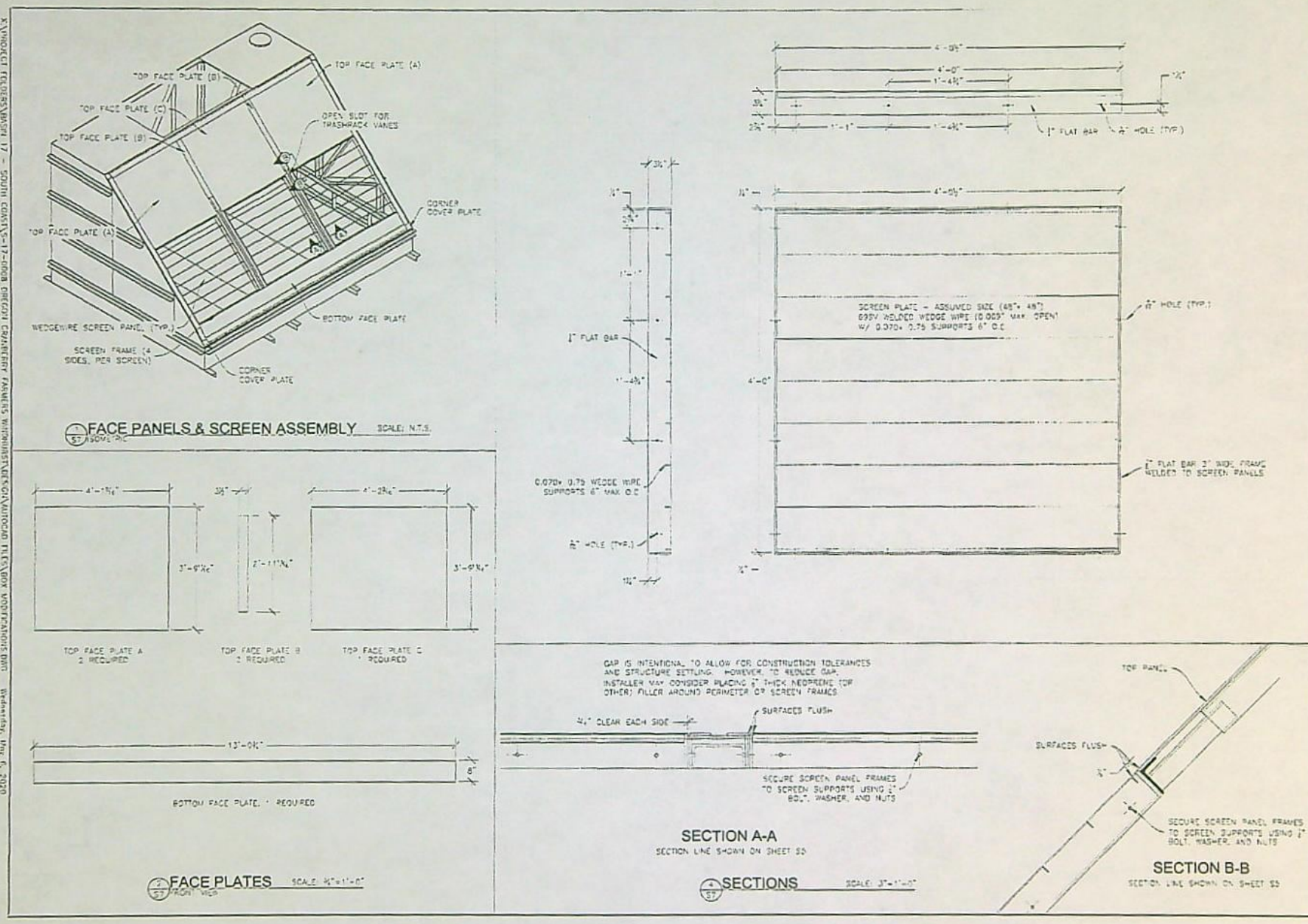

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FACE PANELS & SCREEN

FILE NO. S-17-0008
SHEET S7

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
1031 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

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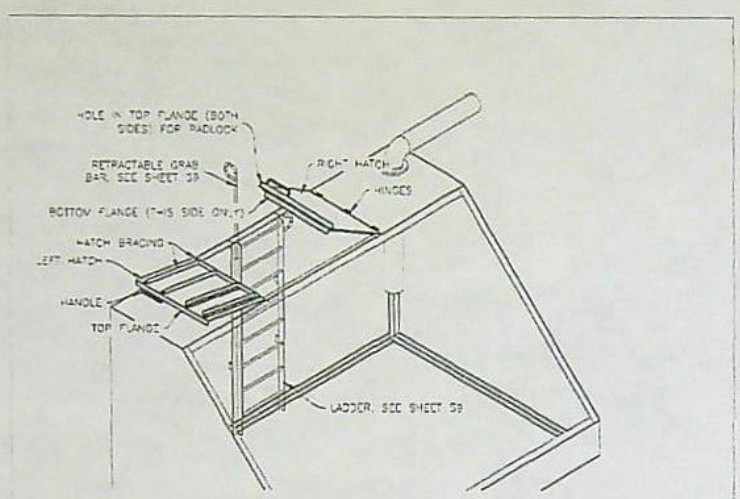
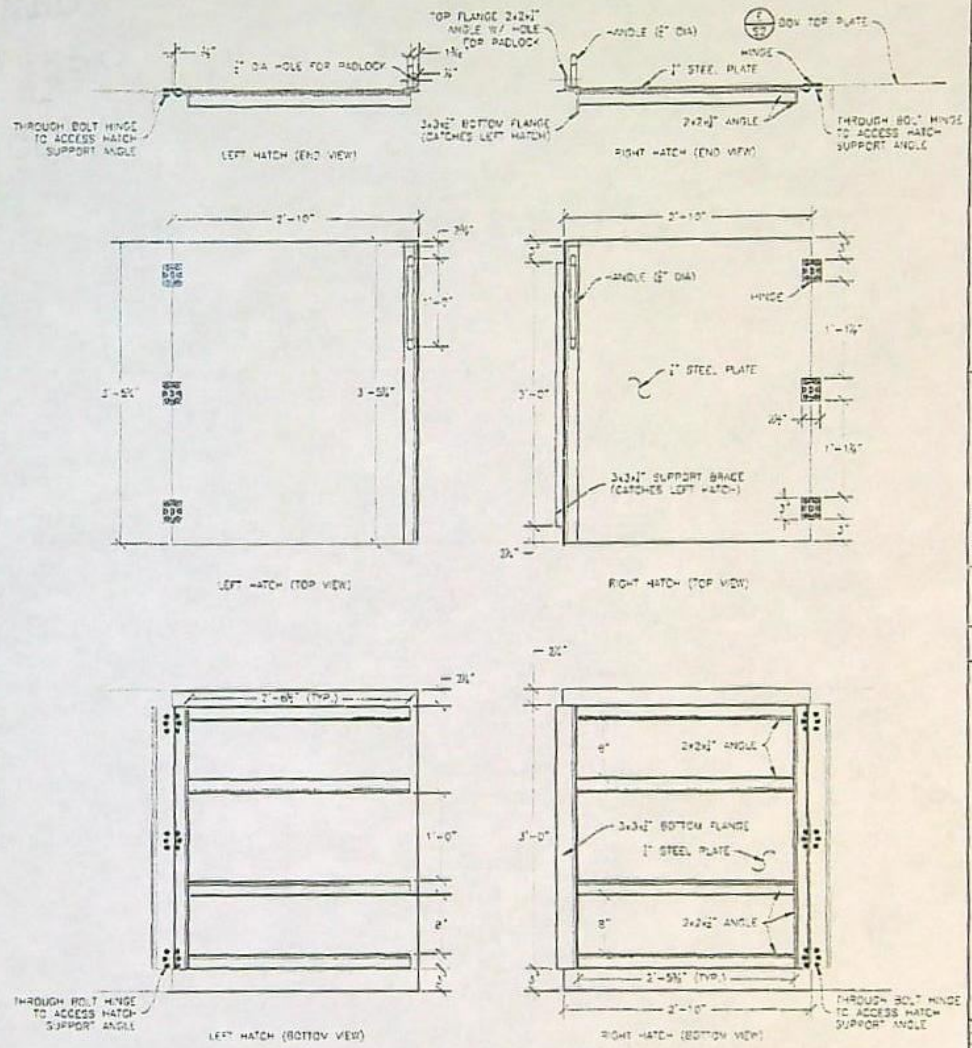


1 ACCESS HATCH SCALE: N.T.S.
S9 ISOMETRIC VIEW

MATERIALS LIST

2	½" STEEL PLATE	2'-10" x 3'-5½"
4	2x2x¼" ANGLE	2'-6½"
4	2x2x¼" ANGLE	2'-3½"
2	2x2x¼" ANGLE	3'-0"
1	3x3x¼" ANGLE	3'-0"
2	2x2x¼" ANGLE	3'-5½" WITH HOLE FOR PADLOCK
2	HANDLES	½" DIA. ROUND BAR
6	HEAVY DUTY HINGES	



2 HATCH DETAILS SCALE: 1½"=1'-0"
S3

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Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6221 FAX: (503) 947-6203

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
ACCESS HATCH

DATE: 5-8-2020
DESIGN BY: ETJ
DRAWN BY: ETJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S8
OF

REV. | DATE | DESCRIPTION

X:\PROJECT FOLDERS\BASIN 17 - SOUTH COAST\S-17-0008 OREGON CRANBERRY FARMERS WILDHURST\DESIGN\AUTOCAD FILES\BOX MODIFICATIONS.DWG - Wednesday, May 6, 2020
9:21:33 AM - 11X17 PLOTTED AT HALF SCALE

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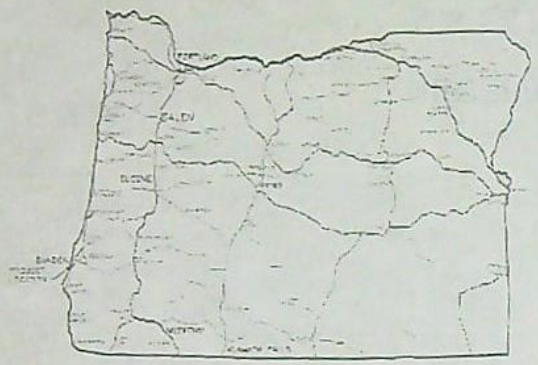

LOCATION MAP



VICINITY MAP

Sheet List Table

SHEET NUMBER	SHEET TITLE
G1	TITLE SHEET
G2	SPECIFICATIONS
G3	SPECIFICATIONS
G4	VICINITY MAP
G5	EXISTING SITE PLAN
C1	PROPOSED SITE PLAN
C2	LAYOUT PLAN & PROFILE
C3	CROSS SECTIONS
C4	SUMP BOX
C5	FLOOR TAP
C6	SIDE INTAKE
C7	BACK INTAKE
C8	TOP COVER
C9	PIPE DRAWING
C10	PIPE TABLE & SECTION
C11	ACCESS PATCH
C12	LADDER
C13	TRAP RACK

OREGON CRANBERRY FARMERS, BILL CREEK

OWNER
JOHN KUIE
PO BOX 352
BANDON, OR 9741

OREGON CRANBERRY FARMS WINCHURST
PROJECT # S-17-0005
LAT 43.08575° LONG -124.34729°
WATER RIGHT S-[illegible]

SCREENS INFORMATION
PUMP INTAKE SUMP WAS EQUIPPED WITH
DIFFERENTIAL PASSIVE SCREEN 11" x 4" (EACH)

ENGINEER
OREGON DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR SE
SALEM, OR. 97302

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH SCREENING AND PASSAGE PROGRAM
3850 PORTLAND ROAD NE, SUITE B
SALEM, OREGON 97303
PHONE: (503) 947-6200 FAX: (503) 947-6202

REV	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TITLE SHEET

DATE: 4/29/2020
DESIGNED BY: STJ
DRAWN BY: STJ
CHECKED BY:
QA/QC:

FILE NO. S-17-0005
SHEET G1
OF

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TRASHRACK ASSEMBLY SCALE: N.T.S.

TRASHRACK COMPONENTS SCALE: 3"=1'-0"

TRASHRACK CELL SCALE: 3"=1'-0"
6 REQUIRED

TRASHRACK CELL SCALE: 3"=1'-0"

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REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN

OREGON Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH PASSAGE AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. SE
SALEM, OREGON 97302
PHONE (503) 947-6224 FAX (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TRASHRACK

DATE: 6-8-2020
DESIGN BY: BTJ
DRAWN BY: BTJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S10
OF

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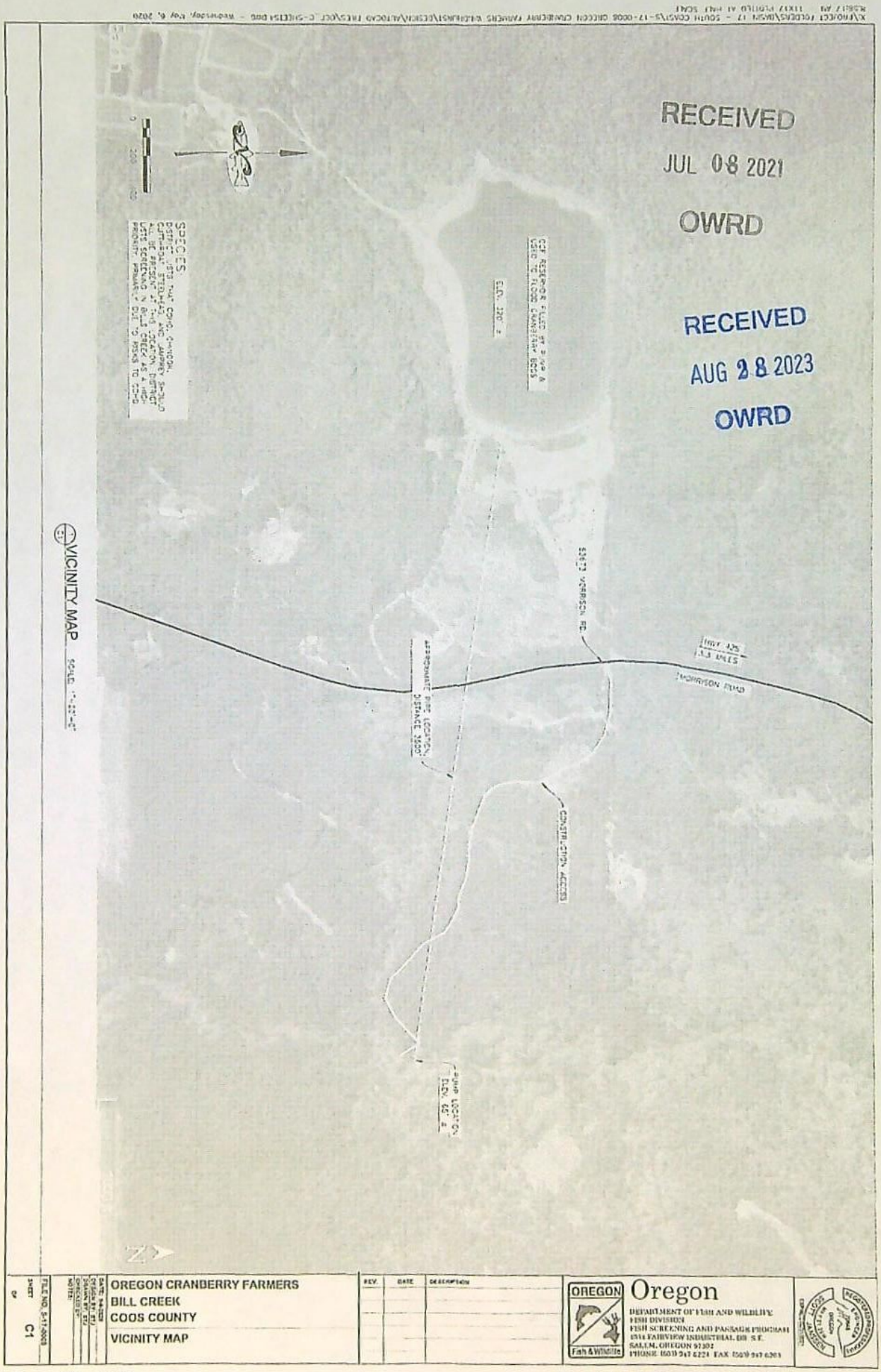
X:\PROJECT FOLDERS\S-17 - SOUTH COAST\S-17-0008 OREGON CRANBERRY FARMERS WATERMISTAKE SIGNALHEAD TRUNNION VERIFICATION\S Date: Wednesday, May 6, 2020
9:21:45 AM 11X17 PLOTTED AT HALF SCALE



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R & S

EXHIBIT C - APPLICATION

Fish Screening and Passage Program

Oregon Department of Fish and Wildlife

Cost Share Grant Application

ODFW USE ONLY	Title: Oregon Cranberry Farmers - Windhurst		Project #: S-17-0008
Project Type: S	Activity: Replacement	Amount: $65,037.20	Date received:

APPLICANT- Fill In	CONTACT INFORMATION	
APPLICANT, CO-APPLICANT, PROJECT CONTACT, WATER USER, LAND OWNER, DIVERSION OWNER	Name: Roth, John	Work phone: 541-347-2437
	Title:	Home phone:
	Business Name: Bandon Cranberry Water Control District	Cell/Other: 541-297-6292
	Mailing Address: 555 Hwy 101	Fax:
	City/State/Zip: Bandon, OR 97411	Email:

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Applicant- Fill In	DIVERSION DETAILS	
Diversion Name: Oregon Cranberry Growers - Windhurst		Diversion Flow Relative to Stream Flow (%): 50.000
GPS Based Diversion Location		
Latitide: 43.08678		Longitude: -124.34739
Digitally Derived Diversion Location		
Latitide: 43.08676	Longitude: -124.34725	County: Coos
Basin: South Coast	District: Umpqua	Stream: Bill Creek
Quarter:	House District: 1	Senate District: 1
HUC: 17100305	Watershed Council Area: Coquille Watershed Association	
LLID: 1243369431063	Tributary Of: Bear Creek	
Notes:		

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Water Rights

Water Permit Number	Water Permit Date	Water Certificate Number	Water Certificate Date	Water Right CFS	Comments
S-53703	6/30/1988			2.75	
Total Water Right CFS:				2.75	

Water Use

Water Use	Water Period	Description
Irrigation	Jan, Feb, Mar, Apr, May, Nov, Dec	POD is used during winter months to supply reservoir

Applicant- Fill In	PROJECT INFORMATION
Summary: A screened vault will be installed to replace a falled pump screen on Bill Creek, near Bandon in Coos County.	
Purpose: ODFW cost shared a Sure-Flo screen for a pump intake that is only used during the winter months. The screen failed almost immediately due to the high flows and large amounts of debris that the site regularly experiences. Rather than continuing to deal with the ongoing damage to the intake pipe and screen, the preferred solution is to install a screened vault within the bank, which will be much less susceptible to high-flow damage. The design has already been completed by ODFW. ODFW considers the stream to be a high priority for screening due to the presence of listed coho. Chinook, cutthroat, steelhead and lamprey are also	

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present.
Estimated TimeLines: The screen shop plans to purchase the materials this spring, and do the fabrication as time allows. Late summer 2021 is the preferred time for installation, but meeting that goal will depend on how well the shop's other scheduled projects go.

Requesting ODFW Engineering Assistance?: Yes	Stream Miles Made Accessible: 0
GPS Based Project Location	
Latitide: 43.08675	Longitude: -124.34724

Digitally Derived Project Location		
Latitide: 43.08676	Longitude: -124.34725	County: Coos
Basin: South Coast	District: Umpqua	Stream: Bill Creek
Quarter:	House District: 1	Senate District: 1
HUC: 17100305	Watershed Council Area: Coquille Watershed Association	
LLID: 1243369431063	Tributary Of: Bear Creek	
Notes:		

ODFW Use Only	**SPECIES**
Project yet to be reviewed by ODFW Team.	

Screen Priority Points		
Diversion flow relative to stream flow (%): 50.000	Diversions Screened in stream (%): 20% - 40%	Amount of Water Screened: 2.75 (cfs)
Fish Species Status:	Fish Migration:	Fish Numbers:
Habitat Quality:	Basin Priority:	Total Points: 0
Screen Details		
Diversion Type: Pump	Fish Screen Brand: na	Fish Screen Model: na
Installation: Pre-fabricated	Cleaning System: Other	Orientation: N/A
Additional Information: Screen will be a pump vault installed in the bank, with a passive panel screen (3 panels, 4ft x 4ft ea), and trashrack.		

Comments/Recommendations	
District Biologist	
Field Coordinator	
Screen Shop Manager	
State Coordinator	
Program Manager	

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Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time	)	PROPOSED
for Permit R-12928, Water Right Application R-69708	)	FINAL
in the name of Windhurst Road Watering Corporation	)	ORDER DENIAL

Permit Information

Application:	R-69708
Permit:	R-12928
Basin:	South Coast / Watermaster District 15
Date of Priority:	September 6, 1988 for 100.0 AF; June 1, 1994 for 514.0 AF
Source of Water:	Bill Creek, a tributary of Bear Creek
Storage Facilities:	23 reservoirs being Windhurts: Haga 1, 2, 3, 4; Bee Sting; Scherer 1, 2, 3, 4, 5, 6, 7, 8; Manicke 1, 2, 3, 4; Richert 1, 2, 3, 4, & 5
Purpose of Use:	to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614 acre-feet (AF) each year, being 470 AF in Windhurts, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5
Maximum Rate:	2.75 cubic feet per second (cfs) maximum combined rate between Permits R-12928, and S-53703

Please read this Proposed Final Order in its entirety.

In summary, the Department proposes to:

- Deny an extension of time to apply water to full beneficial use from October 30, 2019, to October 1, 2024.

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

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ACRONYM QUICK REFERENCE
Department – Oregon Water Resources Department
PFO – Proposed Final Order
AF - acre-feet
cfs – cubic feet per second
ODFW – Oregon Department of Fish and Wildlife

AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(2) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefor; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides that in order to approve an application for an extension of time to complete construction or apply water to full beneficial use, the Department shall make the findings in OAR 690-315-0040(1) including a finding that there is "good cause" to approve the extension. OAR 690-315-0040(2)-(4) contain the factors that the Department must consider to make findings that support a "good cause" determination.

FINDINGS OF FACT

1. On October 10, 2002, Permit R-12928 was issued by the Department. The permit authorizes the storage of up to 614 AF of water each year, being 470 AF in Windhurts, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5 from Bill Creek, a tributary of Bear Creek, to be appropriated under Permit S-53703 for cranberry operations. The permit specified complete application of water was to be made on or before October 1, 2005.

2. On February 1, 2016, an assignment from Windhurts Road Watering Corporation, to Windhurst Subdistrict c/o Bandon Cranberry Water Control District, Northwest Farm Credit Services, FCLA, and Windhusrt Road Watering Corporation was recorded in the records of the Water Resources Department for R-12928.

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3. Two prior permit extensions have been granted for Permit R-12928. The most recent extension resulted in the completion dates for full application of water being extended to October 30, 2019.

4. On September 13, 2021, the permit holder, Scott R. Vierck, chairman of Windhurst Road Watering Corporation, submitted an "Application for Extension of Time" to the Department, requesting the time to apply water to full beneficial use under the terms of Permit R-12928 be extended from October 30, 2019, to October 1, 2024.

5. Notification of the Application for Extension of Time for Permit R-12928 was published in the Department's Public Notice dated October 12, 2021. No public comments were received regarding the extension application.

Review Criteria [OAR 690-315-0040]

In order to approve an application for an extension of time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction, pursuant to ORS 537.248, the Department must make the findings in OAR 690-315-0040(1)(a) – (d).

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

6. On September 13, 2021, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

7. Construction of the water system authorized under Permit R-12928, began prior to permit issuance.

Based on FOF 7, the Department has determined the permit holder has satisfied the condition requiring beginning of construction of the water works.

Good Cause [OAR 690-315-0040(1)(d)]

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

In order to make a finding of "good cause" to approve the extension, the Department shall consider whether the applicant has demonstrated "reasonable diligence" in previous performance under the permit. OAR 690-315-0040(2)(a). In determining "reasonable diligence", the Department shall consider, but is not limited to, the following factors: a) The amount of construction completed within the time allowed in the permit or previous extension; b) The amount of beneficial use made of the water during the permit or previous extension time limits; c) Water right holder conformance with the permit or previous extension conditions; and d) Financial investments made toward developing the beneficial use of water.

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Amount of Construction [OAR 690-315-0040(3)(a)]
The amount of construction completed within the time allowed in the permit and previous extensions.[1]

8. Construction of the water system began prior to the permit issuance.

9. Work was completed during the original development time frame under Permit R-12928 as identified in the Applications for Extension of Time submitted March 6, 2009, and September 26, 2014.

10. During the most recent extension period, being from October 1, 2014, to October 30, 2019, the required staff gages and meters were installed.

The Application provides evidence that progress of physical work, enough to qualify as the minimum necessary, has been made towards completion of the water system for the Department to find good cause and reasonable diligence towards complete application of water to a beneficial use.

Compliance with Conditions [OAR 690-315-0040(3)(c)]
The water right permit holder's conformance with the permit and previous extension conditions.

11. The Department has considered the permit holder's compliance with conditions, and did not identify any concerns.

Based on FOF 11, the Department has determined that the permit holder has demonstrated compliance with permit conditions.

Beneficial Use of Water [OAR 690-315-0040(3)(b)]
The amount of beneficial use made of the water during the permit or previous extension conditions.

12. The Application identifies that 614.0 AF of water from Bill Creek has been stored in the 23 reservoirs authorized by the permit.

13. The Application identifies a maximum diversion rate from Bill Creek as 2.75 cfs.

Based on FOF 11 12, and 13, the Department has determined that full beneficial use of water has been demonstrated under this permit because permit conditions were satisfied by the October 30, 2019.

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[1] **"Actual Construction"** is defined in OAR 690-315-0020(3)(d)(A)and(B) as physical work performed toward completion of the water system which demonstrates the water right permit holder's good faith and intention to complete the project with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land or planting crops.

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Financial Investments to appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]

14. An invested approximately $1,694,367, in the development of this project. The Application identifies installation of a new diversion on Bill Creek and consolidation and construction of reservoirs.

Based on FOF 14, the Department has determined an investment towards the development of Permit R-12928 has been made.

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

The Application provides evidence that work has been accomplished towards completion of the water system; the permit holder has demonstrated compliance with permit conditions, and; the full volume of water has been stored in the 23 authorized reservoirs. The Department has determined the applicant has demonstrated reasonable diligence in previous performance under Permit R-12928.

The Market and Present Demands for Water [OAR 690-315-0040(4)(a-f)]

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

- *(a)The amount of water available to satisfy other affected water rights and scenic waterway flows;*
- *(b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);*
- *(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;*
- *(d) Economic investment in the project to date;*
- *(e) Other economic interests dependent on completion of the project; and*
- *(f) Other factors relevant to the determination of the market and present demands for water and power.*

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OAR 690-315-0040(4)(a)
The amount of water available to satisfy other affected water rights and scenic waterway flows.

15. A review of the amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-12928; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an Application for a new water right is submitted.

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16. Current Water Availability Analysis for the Bear Creek, (Tributary to Coquille River) at the mouth (watershed ID 70230) show that no water is available during the months of August, September and October at the 50% exceedance level.

OAR 690-315-0040(4)(b)
Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).

17. The points of diversion is located on Bill Creek, a tributary of Bear Creek, and is not located within a Withdrawn Area.

18. Bill Creek, a tributary of Bear Creek is not located within or above a state or federal scenic waterway.

19. The point of diversion is in a location listed by the Department of Environmental Quality as a water quality limited stream. Bear Creek, Watershed Unit (1st through 4th order streams) listed under Water Quality Limited for BioCriteria, Dissolved Oxygen, and Temperature.

OAR 690-315-0040(4)(c)
The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.

20. Bill Creek, a tributary of Bear Creek is located within an area ranked "highest" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife.

OAR 690-315-0040(4)(d)
Economic interests dependent on completion of the project.

21. An approximate total of $1,694,367 has been invested in the project.

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OAR 690-315-0040(4)(e)
Other economic interests dependent on completion of the project.

22. Individual families utilize water from this permit for their cranberry operations.

OAR 690-315-0040(4)(f)
Other factors relevant to the determination of the market and present demand for water and power.

23. No other factors relevant to the determination of the market and present demand for water and power have been identified.

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Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

24. The use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

25. The Application identifies that Oregon Department of Fish and Wildlife (ODFW) have requested improvements to the diversion on Bill Creek.

26. According to the Application, and previous applications for extension of time, the permit holder has identified that an ODFW compliant fish screen was installed in 2002.

Though ODFW is requesting an update to the intake, it is not considered a requirement that delayed the development of the water use authorized by the permit because the permit holder has identified that the required fish screen had been installed within the time authorized by the permit.

Unforeseen Events [OAR 690-315-0040(2)(h)]

27. The Application identifies the original landowners have passed away in the last few years.

Denial of an Extension Would Result in Undue Hardship [OAR 690-315-0040(2)(i)]

28. The Application identifies an undue hardship would result for the families who depend on water from these reservoirs for income.

29. According to the Application, the full volume of water has been stored in the 23 authorized reservoirs.

The Department has determined an undue hardship would not result from the denial of this extension of time because the Application has indicated that the permit is fully developed. Because the permit has been fully developed, within the time authorized by the previous extension of time, an extension of time is unnecessary and unwarranted. The Department instructs the permit holder to submit a Claim of Beneficial Use.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

30. The Application provides evidence of good faith of the appropriator under Permit

Based on Findings of Fact 7, through 14, and 21, above, the Department finds that the Applicant has demonstrated good faith.

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Duration of Extension [OAR 690-315-0040(1)(c)]

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

31. As of September 13, 2021, the permit holder states the remaining work to be completed consists of consolidating existing reservoirs and constructing new reservoirs.

32. The Application identifies that the full volume of water has been stored in the 23 authorized reservoirs, in compliance with the terms and conditions of the permit within the time authorized. Consolidation of existing reservoirs and construction of additional reservoirs would require a new permit to either increase the authorized volume of water in the 23 reservoirs, or to authorize a new reservoir for the additional storage.

Based on FOF 11, 12, 13, 26, 31, and 32, the Department has determined the request for an extension of time from October 30, 2019, to October 1, 2024, is not reasonable or necessary because the Application identifies that the development of the authorized volume, rate, and number of reservoirs was completed; and compliance with all conditions has been demonstrated by October 30, 2019.

Good Cause *[OAR 690-315-0040(1)(d)]*

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has not shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

CONCLUSIONS OF LAW

1. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).

2. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

3. The application established construction of the 23 reservoirs is complete, the storage of the permitted volume of water has occurred, and compliance with conditions has been demonstrated within the time authorized by the permit and previous extensions. OAR 690-315-0040(1)(c)

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PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Deny the time to apply water to beneficial use under Permit R-12928 from October 30, 2019, to October 1, 2024.

DATED: November 23, 2021

Dwight French, Administrator
Water Right Services Division

If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100 and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **January 7, 2022,** being 45 days from the date of publication of the proposed final order in the Department's weekly notice.

2. A written protest shall include:

   a. The name, address and telephone number of the petitioner;
   b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
   c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
   d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
   e. Any citation of legal authority supporting the petitioner, if known;
   f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
   g. The applicant or non-applicant protest fee required under ORS 536.050.

3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:

   a. Issue a final order on the extension request; or

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b. Schedule a contested case hearing if a protest has been submitted, and:

1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or

2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through http://legalassistance.law.af.mil. The Oregon Military Department does not have a toll free telephone number.

- If you have any questions about statements contained in this document, please contact Jeffrey D. Pierceall at (503) 979-3213.
- If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-979-9160.
- If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
- Address any correspondence to : Water Right Services Division
  725 Summer St NE, Suite A
  Fax: 503-986-0901 Salem, OR 97301-1266

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Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time for Permit S-53703, Water Right Application S-69654 in the name of Windhurst Water Inc.	)))	FINAL ORDER

Permit Information

Application:	S-69654
Permit:	S-53703
Basin:	South Coast / Watermaster District 15
Date of Priority:	June 30, 1988
Source of Water:	Bill Creek, a tributary of Bear Creek, and legally stored water under Permit R-12928
Purpose or Use:	cranberry operations on 162.4 acres, agricultural use on 27.7 acres, and supplemental cranberry operations on 18.1 acres
Maximum Rate/Volume:	614.0 acre-feet (AF) of stored water; not to exceed 2.75 cfs combined under Permit R-12928 and S-53703 from Bill Creek

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

Appeal Rights

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Application History

Permit S-53703 was issued by the Department on October 10, 2000. The permit specified completion of construction by , and complete application of water to beneficial use by, October 1, 2005. The most recent extension authorized completion of construction and complete application of water to beneficial use by October 30, 2019. On September 13, 2021, Jack Haga of Windhurst Water Inc. submitted an Application for Extension of Time for Permit S-53703. In accordance with OAR 690-315-0050(2), on November 23, 2021, the Department issued a Proposed Final Order proposing to extend the time to complete construction from October 1,

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Exhibit 3 Page 1 of 3

2005, or October 30, 2019, to October 1, 2024, and the time to apply water to full beneficial use from October 1, 2005, or October 30, 2019, to October 1, 2024. The protest period closed January 7, 2022, in accordance with OAR 690-315-0060(1). No protest was filed.

FINDINGS OF FACT

The Department adopts and incorporates by reference the findings in the Proposed Final Order dated November 23, 2021.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to the following conditions:

LIMITATIONS AND CONDITIONS

1. **Last Extension Condition**
   This may be the last extension of time granted for Permit S-53703. Future extensions of time request will only be approved for a period of two years, and will only allow for the demonstration of compliance with permit conditions. No additional development of the beneficial use will be authorized beyond October 1, 2024. ORS 539.010(5); OAR 690-315-0040.

CONCLUSION OF LAW

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

ORDER

The extension of time for Application S-69654, Permit S-53703, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 30, 2019, to October 1, 2024.

DATED: January 28, 2022

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

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- If you have any questions about statements contained in this document, please contact Permit Extension Specialist at (503)979-3213.

- If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900

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Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time for Permit R-12928, Water Right Application R-69708 in the name of Windhurst Road Watering Corporation	) FINAL ORDER) DENIAL

Permit Information

Application:	R-69708
Permit:	R-12928
Basin:	South Coast / Watermaster District 15
Date of Priority:	September 6, 1988 for 100.0 AF; June 1, 1994 for 514.0 AF
Source of Water:	Bill Creek, a tributary of Bear Creek
Storage Facilities:	23 reservoirs being Windhurst: Haga 1, 2, 3, 4; Bee Sting; Scherer 1, 2, 3, 4, 5, 6, 7, 8; Manicke 1, 2, 3, 4; Richert 1, 2, 3, 4, & 5
Purpose of Use:	to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614 acre-feet (AF) each year, being 470 AF in Windhurts, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5
Maximum Rate:	2.75 maximum combined rate between Permits R-12928, and S-53703

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

Appeal Rights

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

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Exhibit 4 Page 1 of 3

Application History

On October 10, 2002, Permit R-12928 was issued by the Department. The permit called for complete application of water to beneficial use by October 1, 2005. The most recent extension authorized completion of construction and complete application of water to beneficial use by October 30, 2019. On September 13, 2021, Scott R. Vierck, chairman of Windhurst Road Watering Corporation, submitted an Application for Extension of Time for Permit R-12928. In accordance with OAR 690-315-0050(2), on November 23, 2021, the Department issued a Proposed Final Order proposing to deny the time to apply water to full beneficial use from October 30, 2019, to October 1, 2024. The protest period closed January 7, 2022, in accordance with OAR 690-315-0060(1). On December 20, 2021, a timely protest was received. The protest asserted the denial of the extension did not adequately take into account the movement of the point of diversion by Oregon Department of Fish and Wildlife (ODFW) after the extended completion date of October 30, 2019, and how the movement of the point of diversion affects the ability to complete a claim of beneficial use; the passing of several of the original permit applicants; and that an approval of the extension of R-12928 would align the completion timelines with those of Permit S-54073. The protest was accompanied by amended pages of the Application for Extension of Time, which included a statement that the volume of water stored to date is "unknown".

FINDINGS OF FACT

The Department adopts and incorporates by reference the findings in the Proposed Final Order dated November 23, 2021.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may not be extended.

ADDITIONAL FINDINGS OF FACT

1. On September 13, 2022, agents for the permit holder submitted additional information estimating the total volume stored in the reservoirs. The estimated volume of storage developed is approximately 553.0 AF.

Based on the additional finding of fact above, the Department has determined that diligence in the development of the water use authorized under this permit has not been demonstrated, and the Application does not provide good cause to approve an extension of time.

CONCLUSION OF LAW

The applicant has not demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

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Exhibit 4 Page 2 of 3

ORDER

The extension of time for Application R-69708, Permit R-12928, therefore, is Denied.

DATED: July 7, 2023

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

- If you have any questions about statements contained in this document, please contact Permit Extension Specialist at (503) 979-3213.
- If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900

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Oregon Water Resources Department
Protest Section
725 Summer Street NE, Suite A
Salem, OR 97301

Petition to Protest Proposed Final Order (PFO) to deny Extension Application – Permit R-12928
OAR690-315-0060 Proposed Final Order Hearing Rights

Petitioner for Protest:

Windhurst Subdistrict c/o Bandon Cranberry Water Control District Phone: 541-297-6292
P.O. Box 1832
Bandon, OR 97411

The Windhurst Subdistrict is the holder of permit R-12928.

The action denying the extension request proposed by the Department will adversely affect petitioner by inhibiting proposed efficiency measures and completion of a proper Claim of Beneficial Use (COBU).

The PFO does not adequately address the movement of the point of diversion by ODF&W after the current completion date (10/30/2019). ODF&W has proposed to improve fish screening by installing an infiltration box rather than a mechanical screen. This necessitates moving the current diversion 30+ feet upstream. The proposed screening improvement is scheduled for sometime in 2022, assuming funds are available.

OAR 690-014-0100(2) states: "*The CWRE shall provide the Department with sufficient information for the Director to determine the extent of beneficial use developed within the conditions or limits of the permit or transfer final order, including any specified time limits.*" A COBU performed after the current completion date of 10/30/2019, could not include the proposed diversion location as meeting time limits of the permit or prior extension. This in effect could damage the public interest in that the proposed fish screening improvement would essentially be from an unauthorized diversion. ODF&W and the Windhurst Subdistrict are under a cooperative contract whereby ODF&W is responsible for maintenance of fish screening devices. ODF&W has determined the proposed movement and improvement of the diversion would better protect the fishery resource.

The PFO also does not adequately address the passing of several of the original permit applicants. New owners believe slight alterations in various reservoirs as to exact size and location could significantly improve water use efficiency.

The extension of permit R-12928 would put it on the same timeline as the use of stored water under permit, S-54073, which has been extended. Requiring two separate COBU's at two different times would unnecessarily result in an undue hardship by significantly increasing costs for COBU's.

Approving the extension of time to match that of S-54073 would remedy the issues stated above.

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Exhibit 5 Page 1 of 1

normthewaterguy@charter.net

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Friday, April 22, 2022 4:37 PM
To: KCJ
Cc: Norm Daft
Subject: RE: Extension R-12928 Windhurst

Hello Clay and Norm,
Please excuse my tardiness in getting back to you with a request for more information. I've been meaning to reach out to you but have been busy and .... I don't have any excuses, I just didn't get it done.
Anyway: Our extension application requirements at OAR 690-315-0020 (3eB) [below] require that you indicate to us the maximum duty of water that has been stored. This requirement doesn't fit with your situation very well because this question is a major, if not thee major, point of the extension. I apologize for not catching this when we spoke a couple months ago. My staff are sticklers for minimum application requirements for good reason – we've been sent back to the drawing board late in the process a few times when we determined, late in the process, that we didn't have a complete application.

Our previous (you and me) thinking was that once an extension was approved you would proceed with a survey to determine the actual storage capacity of all of the reservoirs on this permit then decide if there was a need to increase (or decrease perhaps) the size of any of the reservoirs to get you up to the maximum allowed under the permit. To satisfy the application requirement I propose that you provide us an estimate of how much time it will take to do the survey, then we'll put the application on hold until a survey is submitted showing the amount of water stored in each reservoir and then move forward with processing the extension application. The survey will be needed at some point anyway. I'm suggesting, in order to have a complete application, that you perform the reservoir surveys of the reservoirs now instead of later.
I can become available to discuss if you have any further questions.
By the way: Our CWRE workshop this fall will be in Roseburg and not Grants Pass. Its either the 7th or the 14th of October.
I hope you have gotten an early start towards enjoying your weekend.
Dwight

=-=-=-=-=-=-=-=-=-=-=-=-=

OAR 690-315-0020

(3) The completed application must include the fee specified in ORS 536.050 and an application form setting forth:

(a) The name and mailing address of the water right permit holder(s);

(b) The permit number for which an extension is requested;

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Exhibit 6 Page 1 of 5

(c) If the water right permit holder receives delivery of the subject water right permit from a municipality, municipal corporation, or other special district, the applicant shall provide the name of the entity and evidence that a copy of the application for extension of time has been provided to the entity responsible for delivering the water;

(d) Evidence of the actions taken to begin actual construction within the time period in the permit or previous extension:

(A) "Actual construction" means physical work performed towards completion of the water system, which demonstrates both the present good faith of the water right permit holder and the water right permit holder's intention to complete the project with reasonable diligence;

(B) "Actual construction" does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, or surveying.

(e) Evidence of progress made toward completion of the water development and application to full beneficial use, which includes but is not limited to:

(A) The annual accomplishments toward perfecting the water right under the terms and conditions of the permit, including the dates on which each condition contained in the relevant permit and any previous extension(s) was satisfied or the reason the condition was not satisfied;

(B) The maximum rate, or duty if applicable, of diversion, if any, made to date; and

(C) If for irrigation, a listing by year of the number of acres irrigated each year since permit issuance, the total number of acres irrigated to date under the permit or previous extension, and a copy of the application map showing the acres irrigated.

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

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We're hiring! See the current list of jobs here.

NOTE: The Salem office will re-open to the public on May 1, 2022. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8 a.m. - 5 p.m. every day. The Salem office of OWRD is closed for customer service drop-ins

Exhibit 6 Page 2 of 5

from Noon – 1pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: KCJ <kcjengineer@zoho.com>
Sent: Sunday, March 20, 2022 12:44 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight,
Please see attached amended pages.
Thanks for all your help.
Let me know if more information is needed.
Clay

---- On Mon, 14 Mar 2022 10:45:03 -0700 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

We are on the same page. Can we have the permit holder sign/date all of the amended pages? Or better yet, can you have the permit holder send in (or fax or email would be great) a new application, without fee that includes these pages I just reviewed and everything else the same?
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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From: KCJ <kcjengineer@zoho.com>
Sent: Wednesday, March 9, 2022 9:05 AM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight:
Please see the attached proposed amended extension pages R-12928. Let us know if we are on the same page per our last phone call.
Keep in mind, from our perspective, the permit holders statement in previous extensions regarding reservoirs completion were, at the time, philosophically miss-guided without professional counseling.
Thanks,
Clay

---- On Thu, 03 Feb 2022 14:57:18 -0800 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ---
-

Good Afternoon,
I'm going to try to call Clay now but if that doesn't work, I'm available from 3:30-5 today and tomorrow 830-930, 11-12 or 2-3.
It should only take 30 mins or less.
I want to propose how you could amend the current protested application to demonstrate that the development under the existing permit is either not done or might not be done after all.
Thanks,
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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From: Norm Daft <normthewaterguy@charter.net>
Sent: Wednesday, February 2, 2022 12:13 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>
Subject: Extension R-12928 Windhurst

Hi Dwight,

I received a call from several of the Windhurst Reservoir folks yesterday concerning their protest to the extension denial.

As I understand it, you have been contacted by them and have briefly discussed the matter.

I also understand there may be an opportunity to submit amendments to the application or provide additional information.

They have asked Clay and me to assist them in moving forward.

Not knowing the specifics of any discussions, we would appreciate any guidance you can provide.

It might be helpful for Clay and I to have a conference call with you to discuss how to move forward. Please let us know some times you might be available.

You can call Clay at 541-430-6926 and he can add me in or he can call you if we know what time you can be available.

Thanks for your consideration of this matter.

Norm

Norm Daft
(541) 761-1057

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M. JOHN YOUNGQUIST
WATER RESOURCES CONSULTANT

827 SE MOSHER
ROSEBURG, OREGON 97470
PHONE/FAX: (541) 672-5692

PROJECT MANAGEMENT | PERMITS/LICENSING | RESEARCH | PLANNING

September 18, 1996

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Mr. Dwight French
Oregon Water Resources Department
158 12th Street, N.E.
Salem, Oregon 97310

Re: File No. R-69708

Dear Mr. French:

Enclosed find a supplemental sheet to accompany the application map describing each reservoir by coordinates from a recognized corner and a protest to the proposed final order.

In addition, you requested the names and addresses of affected property owners associated with this application. The names and addresses of property owners not associated with the applicants is noted under the remarks section of each reservoir application. I assume that the request is for the names and addresses of the participants within the sub district. We did not realize that the Department desired to have each sub district member's address at the time of filing. Their addresses are:

Ronny & Gloria Haga
Route 1, Box 2095
Bandon, Oregon 97411
Phone: 541-347-2295

Bruce L. Manicke
P. O. Box 584
Bandon, Oregon 97411
Phone: 541-347-2622

David F. Richert
Box 86
Bandon, Oregon 97411

Phone: 541-347-2710

Wayne R. Scherer
Bonnie L. Scherer
P. O. Box 503
Bandon, Oregon 97411
Phone: 541-347-3062

Please contact me if additional information is needed

Yours truly,

M. John Youngquist

cc: Windhurst Road Sub District

Exhibit 7 Page 1 of 1

File Copy

Oregon

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RESOURCES
DEPARTMENT

22 September, 1995

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John Youngquist
827 SE Mosher Ave.
Roseburg OR 97470

RE: Windhurst Road Applications R69708 and 69654

Dear Mr. Youngquist:

As I had not yet received any indication from ODFW that they are withdrawing their protest against Mr. Scherer's applications, I contacted ODFW staff Rick Kruger at 229-6067, Ext. 437, who is filling in for Stephanie Burchfield while she's out on maternity leave.

According to Mr. Kruger, who discussed this with Reese Bender, the proposed project has changed dramatically since it was first applied for (9/88), from a major in-channel dam and "diversion " (34.8 cfs) to many small, off-channel reservoirs, a small (1-foot high) weir for a pump and an unknown (to ODFW) diversion rate. ODFW does not have a copy of the most recent application (6/94) and so does not have the specifics on the above revised project(s), but is very pleased with the switch to off-channel and the small pump diversion and is anxious to sign off on the proposal, once it sees the final proposal in writing and agrees on the specifics of the control structure and minimum bypass flow.

Mr. Kruger reports that you and Reese Bender met on site around October 1994, at which time you discussed and agreed upon conceptual matters only. At this meeting, Reese reports that the parties agreed on the location of the low weir but not on the specifics of the control structure. ODFW is waiting to receive some sort of written final design proposal/drawings. Mr. Kruger notes that since ODFW hasn't seen the latest application either, he would ask that you submit a complete package (new/revised application and final design proposal/drawings), showing/ describing the entire project and how it would function.

Mr. Kruger further noted that of particular concern is the maximum diversion rate of the pump facility and a "minimum flow" at the weir, below which the pump would not operate and no diversion would occur. He understood from Reese that ODFW and you agreed in concept to setting some minimum flow, but that you either did not discuss or agree upon an amount. Maximum diversion rate will be determined by the capacity of the pump. ODFW needs to see the specifics on these and come to agreement on the minimum flow amount before it can "sign off" and withdraw its protest.

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

Exhibit 8 Page 1 of 2

I look forward to seeing this matter brought to a close, as I'm sure all the parties do. If you would be so kind as to provide me with a copy of the documentation you send to ODFW, I would appreciate it. I will expect to receive a copy of ODFW's approval and of its withdrawal at some later time.

Sincerely,

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Weisha Mize
Administrative Law Judge

cc: John Drolet, Watermaster, Dist. 19
Steve Applegate, WRD, Salem
Rick Kruger, ODFW, Portland

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Oregon
John A. Kitzhaber, M.D., Governor

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

February 26, 1998

URGENT

Jill Zarnowitz
Oregon Department of Fish and Wildlife
2501 SW First Ave, PO Box 59
Portland, Oregon 97207

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RE: Settlement of Protest on Windhurst Road Water Corporation Application S-69654: Stipulated Final Order and Agreement

Dear Jill:

Some time ago you signed the agreement settling the protest on Windhurst's reservoir application (R-69708). Enclosed is the stipulated final order and agreement settling the other half of the proposed use - S-69654. This application allows them to use the stored water and some live flow.

This document is the result of a long awaited agreement between the Department, ODFW, and the applicant. Reese Bender from the ODFW Charleston office has been very involved with the settlement and has reviewed the enclosed agreement. (See attached letter from Reese). The settlement is laid out in pages 1-4 of the document so I will not try to summarize it here.

ODFW has official party status to this case and therefor I am requesting that you sign and date page (4) of the agreement. The applicant has already signed. This type of document is the typical document we use to settle cases in the jurisdiction of the Hearings Officer.

Please sign and return the agreement to my attention as soon as possible.

If you have any question please call me at 1-800-624-3199 ex. 262.

Sincerely,

Adam Sussman
Protest Program Coordinator

enclosure

cc: John Youngquist
827 SE Mosher Ave.
Roseburg, Oregon 97470

Reese Bender, ODFW
Weisha Mize, OWRD

Exhibit 9 Page 1 of 7

Oregon
John A. Kitzhaber, M.D., Governor

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

RECEIVED
AUG 28 2023
OWRD

February 9, 1998

Wayne Scherer
Ronny O. Haga
Windhurst Road Water Corporation
P.O. Box 503
Bandon, Oregon 97411

RE: Stipulated Final Order and Agreement - Application S-69654

Gentleman:

Enclosed is an Agreement and Stipulated Final Order for Application S-69654. Several months ago I sent a draft of this agreement to you, John Youngquist and, Jill Zarnowitz from Oregon Department of Fish and Wildlife. Everyone thought it looked good. I was holding this in the hopes of getting the adjusted map. I now realize that the map adjustments will be minor and there is no reason to hold this any longer. The only changes I have made since the draft were to describe that minor adjustments may occur to place of use and type of use once the revised map is received (item 3), and to delete references to permit numbers since I do not know what they will be.

Please review the document carefully and sign and date page 4. Return the entire document to my attention. After you sign and return I will send it off to Jill for her signature.

Please feel free to contact me at 1-800-624-3199 ex. 262. If you have any questions.

Sincerely,

Adam Sussman
Protest Program Coordinator

cc: John Youngquist
827 SE Mosher Ave.
Roseburg, Oregon 97470

Watermaster District 19

Reese Bender, ODFW

Exhibit 9 Page 2 of 7

State of Oregon
Water Resources Department

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In the matter of Water Right Application S-69654 Windhurst Road Water Corporation	)))	**Agreement and Stipulated Final Order**

Application History

On June 30, 1988, Windhurst Road Water Corporation submitted an application to the Department for a water use permit. The proposed use requested 34.79 cubic feet per second (cfs) from stored water and live flow for cranberry operations. The proposed source of water was an on-channel reservoir and live flow from Bill Creek, tributary to Bear Creek and within the Coquille River Basin.

In April 1989, pursuant to OAR 690-11-080(2)(a)(C), the request was presented to the Water Resources Commission for a determination of whether a public interest hearing was necessary (Agenda Item G, WRC Meeting April 17, 1989). The Commission voted to hold a public interest hearing due to fisheries concerns raised by the Oregon Department of Fish and Wildlife (ODFW). On August 10, 1989, a contested case hearing was set for October 11, 1989, by Administrative Law Judge (ALJ) Weisha Mize. Parties named to the proceeding are the applicant, ODFW, and the Department. On the unopposed motions of the applicant the hearing has been continued several times to allow for settlement negotiations and application modifications.

On June 1, 1994, the application was amended to request the use of 614 acre-feet of stored water from 23 off-channel reservoirs and 10 cfs of live flow from Bill Creek.

The Department processed the amended application under Senate Bill 674 (1995 Legislative Session) and on August 6, 1996, conditionally approved the use. The Department's Proposed Order does not change contested case party status. On September 18, 1996, the applicant protested the Department's Proposed Final Order and requested that the application be placed on administrative hold while settlement discussions continued.

The applicant, Oregon Department of Fish and Wildlife, and the Department agree that the issue(s) in this case may be settled on the following terms and conditions, and hereby stipulate to the following:

1) Parties waive the right to file exceptions to this order and the right to judicial review under ORS 536.075(2) and 183.482.

Exhibit 9 Page 3 of 7

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2) Entry of this stipulated final order by the Administrative Law Judge.

3) Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon a permit being issued for the reservoirs proposed under application R-69708 (source of 614 acre-feet). Permit issuance is also contingent upon the applicant submitting a revised map, meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use. Minor modification to place of use and type of use, as described on the attached draft permit, may occur as a result of the map revision. Finally, permit issuance shall be contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.

4) The permit shall contain the following new or modified conditions as well as the conditions contained on the attached draft permit.

A) Season of Use: November 1 through May 31

B) Source: Bill Creek and 614 acre-feet stored water in 23 off-channel reservoirs

C) Instantaneous Diversion Rate: the maximum diversion rate from Bill Creek authorized under this permit, combined with the diversion authorized under application R-69708 shall not exceed 2.75 cfs and is further limited as described below.

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish

Exhibit 9 Page 4 of 7

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passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708 shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application R-69708, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application R-69708, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for R-69708 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

D) Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion on Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

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

E) Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

F) At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

G) As conditioned, the proposed use will not impair or be detrimental to the public interest.

Exhibit 9 Page 5 of 7

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AUG 28 2023
OWRD

Findings of Fact and Conclusions of Law

Pursuant to OAR 690-410-070 and OAR 690-400-010(11) water is available for the proposed use November 1 through May 31 of each year. Under the South Coast Basin Program OAR 690-517-001, the use is allowable as requested. The proposed use will not injure other water rights and complies with rules of the Water Resources Commission. Finally, as conditioned above and on the attached draft permit the proposed use will not impair or be detrimental to the public interest.

Therefore, the applicant, the Oregon Department of Fish and Wildlife, and the Department agree that the proposed use may be allowed as conditioned above and on the attached draft permit without detriment or impairment to the public interest.

The applicant, the Oregon Department of Fish and Wildlife, and the Department agree on all other aspects of the attached draft permit and therefore agree to the entry of this Stipulated Final Order. Therefore, the Department finds and the applicant and the Oregon Department of Fish and Wildlife agree that, if exercised in accordance with the attached draft permit, the proposed use will not impair or be detrimental to the public interest.

_____ _____

On Behalf of Applicant Date

_____ _____

On Behalf of the Oregon Department of Fish and Wildlife Date

_____ _____

On Behalf of the Oregon Department of Water Resources Date

Exhibit 9 Page 6 of 7

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Stipulated Final Order

Pursuant to the Agreement described above, Application S-69654 therefore is approved with the above modifications to the Proposed Final Order. Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon a permit being issued for the reservoirs proposed under application R-69708 (source of 614 acre-feet). Permit issuance is also contingent upon the applicant submitting a revised map, meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use. Minor modification to place of use and type of use, as described on the attached draft permit, may occur as a result of the map revision. Finally, permit issuance shall be contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.

DATED , 1998

_____
Weisha Mize
Administrative Law Judge

Exhibit 9 Page 7 of 7

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AUG 28 2023
OWRD

Bandon Cranberry Water Control District
PO Box 1832
Bandon, OR 97411

REQUEST FOR RECONSIDERATION – DENIAL OF EXTENSION APPLICATION FOR S-12928
R K.C.
July 31, 2023

R K.C.
The requested extension of permit S-12928 was denied on July 7, 2023.

1. Extension of R-12928 is necessary to complete permit S-53703 which has been extended to 10/1/2024. **Use of stored water is crucial to completion of permit S-53703.** Newly constructed bogs will need use of water from a reservoir (about 5 acre-feet) completed aer the last completion date. A previous owner, before the current owner, started the newly completed reservoir aer a previous owner listed on the permit (Scherer) died. Please see attached 10/29/2019 Google aerial photo that shows partial construction of reservoir. This photo was taken a day prior to the current completion date.

2. Partial construction of the reservoir shown on the attached aerial photo was inadvertently not included in the extension application.

3. **Bogs have recently been constructed under permit S-53703 that are dependent on permit R-12928 being extended.** Permit S-53703 has been extended unl October 1, 2024.

4. The current completion date for R-12928 is October 30, 2019.

5. Two major land owners have died prior to this extension application (Haga 2016 and Scherer 2014). These land owners were managing the Special District. There are new managers and a new owner of the Scherer property as of 3/3/2020, who has been working toward compleon of permits R-12928 and S-53703. The deaths of the two major cranberry farmers significantly delayed progress toward completion of both permits.

6. All water for all reservoirs under permit R-12928 comes from a single pump diversion on Bill Creek. No diversion changes (other than a slightly different location for a new fish screen) are needed. No increase in rate of diversion is needed.

7. The Extension Application indicated, in error, that the total storage listed in the permit had been stored. There had not been a survey of storage volume to document the total water stored.

8. Water Resources staff requested the applicant's consultant do a field survey of all reservoirs to determine the total acre-feet stored to date to see whether the full amount of water had been stored or not. It seemed as though the stated storage of 614 AF was the reason as to be why it was proposed the extension be denied. It appeared there would be no reason for an extension if 614 acre-feet had been stored and all conditions met. The consultant (Jordan Engineering) found that approximately 553 acre-feet of the 614 acre-feet allowed has been stored and used from 19 of 23 reservoirs allowed. Several other reservoirs were constructed but were not viable.

Exhibit 10 Page 1 of 3

Bandon Cranberry Water Control District
PO Box 1832
Bandon, OR 97411

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9. This is a mul-million dollar project that includes multiple land owners and NW Farm Credit Services.

10. When the permit applications were submitted (1988), the location and size of proposed reservoirs and cranberry bogs was tentative as brush and trees had to be removed to see if sites were viable. Also, at the time of submission of the permit application, it was understood that deviations, as long as they didn't exceed the permit limits, would be taken care of at proof (Claim of Beneficial Use).

11. The application for permit R-12928 was submitted in 1988. The use of water permit, S-53703 was also submitted in 1988. Permit R-12928 and S-53703 were not issued unl 10/10/2000.

12. Cranberry farming is a significant part of the economy of the area.

Proposed Final Order (PFO) Denying the Extension

1. Findings of Fact 14 of the PFO found reasonable diligence has been demonstrated.

2. Findings of Fact 15 found no issue with the amount of water available for other water rights or scenic waterway flows.

3. Findings of Fact 29 indicated the full amount of water was stored, so no undue hardship was found. However, evidence was submitted, at the Department's request, the full amount of water has not been stored. As stated in item 1, page one above, completion of a reservoir within the limits of permit R-12928 is necessary to complete permit S-53703 which has been extended.

4. Finding of Fact (FOF) 30 states "Based on Findings of Fact 7, 14 and 21, above, the Department finds that the Applicant has demonstrated good faith." FOF 7 indicates mely beginning of construction occurred. FOF 14 found reasonable diligence. FOF 21 found that about $1.7 million had been invested.

In summary, it appeared that the only reason for denial of the extension application for permit R-12928 is that the application indicated the full amount of permied acre-feet of water was stored. It was determined that this was only a guess so the Department staff requested that the applicant's consultant conduct a field survey to determine total storage to date. That information was submitted to the Department and showed the full volume of water has not been stored.

There are issues with the Final Order (FO). The FO indicates that permit R-12928 was issued on 10/10/2002. It was actually issued on 10/10/2000.

Exhibit 10 Page 2 of 3

Bandon Cranberry Water Control District
PO Box 1832
Bandon, OR 97411

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Also, the FO is not congruent with the PFO in that the PFO states that "the Department has determined the applicant has demonstrated reasonable diligence in previous performance under Permit R-12928. The FO states: "ADDITIONAL FINDINGS OF FACT
1. On September 13, 2022, agents for the permit holder submitted additional information esmang the total volume stored in the reservoirs. The estimated volume of storage developed is approximately 553.0 AF. Based on the additional finding of fact above, the Department has determined that diligence in the development of the water use authorized under this permit has not been demonstrated, and the Application does not provide good cause to approve an extension of me."

The Extension Application erroneously indicated the full amount of water had been stored. The Department seems to have indicated this was the reason for denying the extension in the PFO. The Department requested a field survey of the total storage to determine if it was equal to or less than what was permitted. The applicant was under the understanding that if less than the full amount of water had been stored then the Extension Application could move forward toward approval.

It seems the Department is now stang that since the full amount of storage has not occurred, that erases reasonable diligence. Please refer to item 1 page one – partial construction of a reservoir inadvertently not included in extension application.

The question arises as to why Department staff requested a field survey of total storage if the extension application was going to be denied either way.

Please notify in addition to the Windhurst Subdistrict c/o Bandon Cranberry Water Control District, the following persons of the Department's intention regarding this request for reconsideration of the denial of the extension application for permit R- 12928:

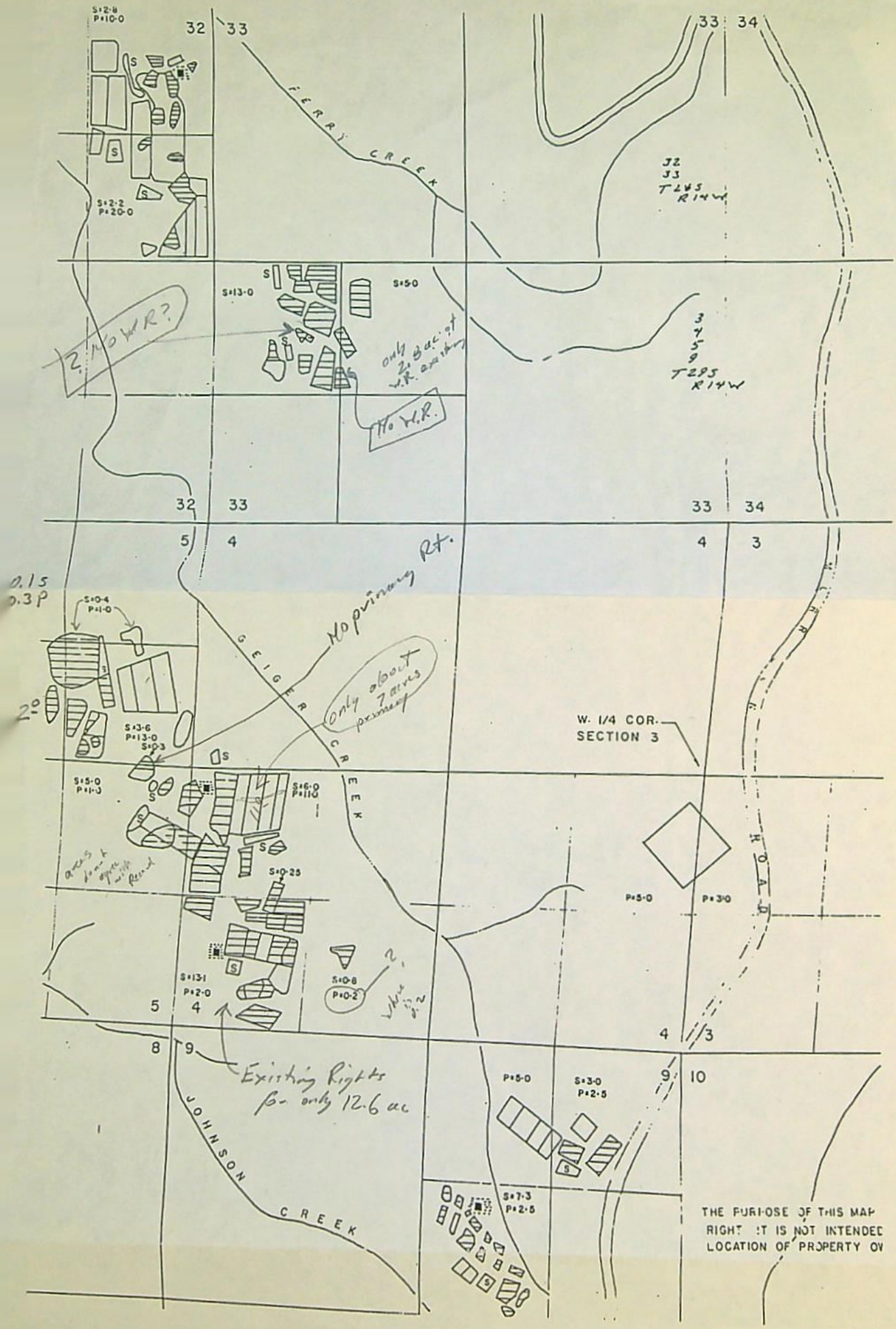
John Roth
Phone 541-297-6292
P.O. Box 362
Bandon, OR 97411

John Roth
Chairman

Clay Jordan, CWRE
Phone 541-430-6926
460 Jordan Lane
Roseburg, OR 97471

Respectfully submitted.

Exhibit 10 Page 3 of 3



S=2·8
P=10·0
32
33
FERRY CREEK
33
34
32
33
T24S
R14W
S=2·2
P=20·0
S=13·0
S=5·0
? No W.R.?
only 2.8 ac at W.R. existing
No W.R.
3
4
5
9
T29S
R14W
32
33
33
34
5
4
4
3
No primary Rt.
0.1 S
0.3 P
S=0·4
P=1·0
GEIGER CREEK
only about 7 acres primary
2°
S=3·6
P=13·0
S=0·3
W. 1/4 COR.
SECTION 3
S=5·0
P=1·0
S=6·0
P=11·0
S=0·25
P=5·0
P=3·0
S=13·1
P=2·0
S=0·8
P=0·2
5
4
4
3
8
9
Existing Rights for only 12.6 ac
9
10
P=5·0
S=3·0
P=2·5
JOHNSON CREEK
S=7·3
P=2·5
THE PURPOSE OF THIS MAP
RIGHT IT IS NOT INTENDED
LOCATION OF PROPERTY OV

Oregon
Kate Brown, Governor

Water Resources Department
North Mall Office Building
725 Summer St NE, Suite A
Salem, OR 97301
Phone (503) 986-0900
Fax (503) 986-0904
www.wrd.state.or.us

February 4, 2016

Northwest Farm Credit Services
2222 NW Kline St.
Roseburg, Oregon 97471

Reference: Application R-69078, Permit R-12928

The assignment from Windhurst Subdistrict c/o Bandon Cranberry Water Control District to Windhurst Subdistrict c/o Bandon Cranberry Water Control District and Northwest Farm Credit Services, FLCA has been recorded in the records of the Water Resources Department.

The Departments records will now show Windhurst Subdistrict c/o Bandon Cranberry Water Control District and Northwest Farm Credit Services, FLCA as the permit holders of record.

Our records have been changed accordingly and the original request is enclosed. Receipt number 118784 covering the recording fee is also enclosed.

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

Please note that this permit requires complete application of water to the proposed use by October 1, 2019, and within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Sincerely,

Jerry Sauter
Water Rights Program Analyst
Water Right Services Division

Enclosure: Receipt 118784

cc: Watermaster 19
Windhurst Subdistrict c/o Bandon Cranberry Water Control District
Data Center, OWRD (cover letter & request)
Hydrographics
File

STATE OF OREGON
WATER RESOURCES DEPARTMENT
725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # 118783 INVOICE # _____

RECEIVED FROM: Bandon Cranberry
BY: Water Control District

APPLICATION	R-69708
PERMIT	
TRANSFER	

CASH: ☐ CHECK:# ☒ 1486 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D $85.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES $
_____ OTHER: (IDENTIFY) _____ $

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

MISCELLANEOUS 46111

0407 COPY & TAPE FEES $
0410 RESEARCH FEES $
0408 MISC REVENUE: (IDENTIFY) Assignment $85.00
TC162 DEPOSIT LIAB. (IDENTIFY) $
0240 EXTENSION OF TIME $

WATER RIGHTS:

		EXAM FEE		RECORD FEE
0201	SURFACE WATER	$	0202	$
0203	GROUND WATER	$	0204	$
0205	TRANSFER	$		

WELL CONSTRUCTION

		EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	$	0219	$
	LANDOWNER'S PERMIT		0220	$

_____ OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD) $
0231 HYDRO LICENSE FEE (FW/WRD) $
_____ HYDRO APPLICATION $

_____ TREASURY OTHER / RDX

FUND _____ TITLE _____
OBJ. CODE _____ VENDOR # _____
DESCRIPTION _____ $

RECEIPT: 118783 DATED: 2/1/16 BY: [signature]

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

BANDON CRANBERRY WATER CONTROL DISTRICT 1486

85.00
OWRD

RECEIVED BY OWRD
FEB 01 2016
SALEM, OR

BANDON CRANBERRY WATER CONTROL DISTRICT 1486

RECEIVED BY OWRD
FEB 01 2016
SALEM, OR

39305

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

Request for Assignment

If for multiple rights, a separate form and fee for each right will be required.

I, Windhurst Subdistrict c/o Bandon Cranberry Water Control District, a Corporation
(Name of Applicant / Permit / Transfer Holder / License Holder / GR Certificate of Registration)

P.O. Box 1832 Bandon Oregon 97411 541-297-8261
(Mailing Address) *(City)* *(State)* *(Zip)* *(Phone #)*

☒ hereby assign *all my interest* in and to application/permit/transfer/license/GR Certificate of Registration;

☐ hereby assign *all my interest* in and to a portion of application/permit/transfer/license/GR Certificate Registration; *(You must include a map showing the portion of the application/permit/transfer/license/GR Certificate of Registration to be assigned.)*

☐ hereby assign *a portion of my interest* in and to the *entire* application/permit/transfer/license/GR Certificate of Registration:

Application #R-69708; Permit # R- 12928; Transfer # _____

License #_____; GR Statement #_____; GR Certificate of Registration #_____

As filed in the office of the Water Resources Director, to:

Windhurst Subdistrict c/o Bandon Cranberry Water Control District, a Corporation and Northwest Farm Credit Services, FLCA
(Name of New Owner)

2222 NW Kline St. Roseburg, Oregon 97471 541-464-6700
(Mailing Address) *(City)* *(State)* *(Zip)* *(Phone #)*

Note: If there are other owners of the property described in this Application, Permit, Transfer, License, or GR Certificate of Registration, *you must provide a list of all other owners' names and mailing addresses and attach it to this form.*

I hereby certify that I have notified all other owners of the property described in this Application, Permit, Transfer, License, or GR Certificate of Registration of this Request for Assignment

Witness my hand this 28th day of January, 2016.

Applicant/Permit Holder X Scott Vincent

Applicant/Permit Holder X Margaret Lakyen

ASSIGN pg 2/2/2016

DO NOT WRITE IN THIS BOX

This certifies assignment and record change at Oregon Water Resources Department effective 8:00 a.m. on date of receipt at Salem, Oregon.
Fee receipt # 119764
For Director by Jerry Sauter, Program Analyst in Water Rights Division

The completed "Request for Assignment" form *must* be submitted to the Department along with the recording fee of **$85**.

RECEIVED BY OWRD
FEB 01 2016
SALEM, OR

Oregon
Kate Brown, Governor

Water Resources Department
North Mall Office Building
725 Summer St NE, Suite A
Salem, OR 97301
Phone (503) 986-0900
Fax (503) 986-0904
www.wrd.state.or.us

February 4, 2016

Northwest Farm Credit Services
2222 NW Kline St.
Roseburg, Oregon 97471

Reference: Application R-69078, Permit R-12928

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Sincerely,

Jerry Sauter
Water Rights Program Analyst
Water Right Services Division

Enclosure: Receipt 118783

cc: Watermaster 19
Windhurst Subdistrict c/o Bandon Cranberry Water Control District
Data Center, OWRD (cover letter & request)
Hydrographics
File

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # 118784

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIVED FROM: Northwest Farm Credit Services
BY:

APPLICATION	R-69708
PERMIT	
TRANSFER	
TOTAL REC'D	$85.00

CASH: ☐ CHECK:# ☒ 47003099 ☐ OTHER: (IDENTIFY) _____

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	$
_____	OTHER: (IDENTIFY) _____	$

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

46111

MISCELLANEOUS

0407	COPY & TAPE FEES	$
0410	RESEARCH FEES	$
0408	MISC REVENUE: (IDENTIFY) Assignment	$ 85.00
TC162	DEPOSIT LIAB. (IDENTIFY)	$
0240	EXTENSION OF TIME	$

WATER RIGHTS:

		EXAM FEE		RECORD FEE
0201	SURFACE WATER	$	0202	$
0203	GROUND WATER	$	0204	$
0205	TRANSFER	$		

WELL CONSTRUCTION

		EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	$	0219	$
	LANDOWNER'S PERMIT		0220	$

_____ OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	$	CARD #
0210	MONITORING WELLS	$	CARD #

_____ OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)		$
0231	HYDRO LICENSE FEE (FW/WRD)		$
_____	HYDRO APPLICATION		$

____ TREASURY OTHER / RDX

FUND _____ TITLE _____
OBJ. CODE _____ VENDOR # _____
DESCRIPTION _____ $

RECEIPT: 118784 DATED: 2/1/16 BY:

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

ACA-2033 7/99

DETACH BEFORE DEPOSITING

Memo:

Date: 01/29/2016 Amount: $85.00

SALEM, OR

FEB 01 2016

RECEIVED BY OWRD

Customer No. Account No.

Mail To:
Oregon Water Resources Department
725 Summer St NE Suite A
Salem OR 97301

Paid To:
Oregon Water Resources Department
725 Summer St NE Suite A
Salem OR 97301

Comments:
Bandon Cranberry Water Control District Filing request for assignment per B. Henderson request

Control No.: 47003099

	Amount
	$85.00

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

Request for Assignment

If for multiple rights, a separate form and fee for each right will be required.

I, Windhurst Road Watering Corporation
(Name of Applicant / Permit / Transfer Holder / License Holder/GR Certificate of Registration)

P.O. Box 503	Bandon	OR 97411	541-347-3062
(Mailing Address)	*(City)*	*(State) (Zip)*	*(Phone #)*

☑ hereby assign ***all my interest*** in and to application/permit/transfer/license/GR Certificate of Registration;

☐ hereby assign ***all my interest*** in and to a portion of application/permit/transfer/license/GR Certificate of Registration; *(You must include a map showing the portion of the application/permit/transfer/license/GR Certificate of Registration to be assigned.)*

☐ hereby assign ***a portion of my interest*** in and to the ***entire*** application/permit/transfer/license/GR Certificate of Registration:

Application # R-69708 ; Permit # R-12928 ; Transfer # _____
-OR-
License # _____ ; GR Statement # _____ ; GR Certificate of Registration # _____

As filed in the office of the Water Resources Director, to:

Windhurst Subdistrict c/o Bandon Cranberry Water Control District
(Name of New Owner)

P.O. Box 1832	Bandon	Oregon 97411	541-297-8261
(Mailing Address)	*(City)*	*(State) (Zip)*	*(Phone #)*

Note: If there are other owners of the property described in the Application, Permit, Transfer, License, or GR Certificate of Registration, *you must provide a list of all other owners' names and mailing addresses and attach it to this form.*

I hereby certify that I have notified all other owners of the property described in this Application, Permit, Transfer, License, or GR Certificate of Registration of this Request for Assignment

Witness my hand this 12TH day of January, 2016.

Applicant/Permit Holder Scott Vierck — Guy Scherer

Applicant/Permit Holder Ronny Haga — David Richert

ASSIGN 2/2/2016

DO NOT WRITE IN THIS BOX

This certifies assignment and record change at Oregon Water Resources Department effective 8:00 a.m. on date of receipt at Salem, Oregon.
Fee receipt # 118787
For Director by Jerry Sauter, Program Analyst in Water Rights Division

The completed "Request for Assignment" form *must* be submitted to the Department along with the recording fee of **$85.**

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FEB 01 2016
SALEM, OR

Northwest FARM CREDIT SERVICES
2222 NW Kline St
Roseburg, OR 97471-1739
Voice: 541.464.6700 *Fax:* 541.464.6705

January 29, 2016

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Re: Water Right Permit No. R-12928

Please find enclosed (2) fully executed Request for Assignments and a check from Bandon Cranberry Water Control District and a check from Northwest Farm Credit Services, FLCA to cover your Assignment costs on the above referenced permit.

The first request hereby assigns all interest to Windhurst Subdistrict c/o Bandon Cranberry Water Control District. The second request hereby assigns all interest to Windhurst Subdistrict c/o Bandon Cranberry Water Control District, a Corporation and Northwest Farm Credit Services, FLCA.

Please send copies of all notices and correspondence affecting the above referenced permit to the following:

Northwest Farm Credit Services, FLCA
2222 NW Kline St.
Roseburg, OR 97471

Please feel free to call the office if you have any questions.

Sincerely,

Becky Henderson
Financial Specialist

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FEB 01 2016
SALEM, OR

This institution is an equal opportunity provider and employer.

Oregon

WATER
RESOURCES
DEPARTMENT

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JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

February 14, 1994

John Youngquist
Water Resources Consultant
827 SE Mosher Ave.
Roseburg, Oregon 97470

REFERENCE: R-69708 and 69654

Dear Mr. Youngquist,

At your request, I am delivering to you both original applications, an additional data sheet for application 69654 and three maps for correction and completion. In order to maintain their tentative priority dates the applications, supporting data sheet and maps must be returned to this office by June 1, 1994.

Sincerely,

Michael J. Mattick

MICHAEL J. MATTICK
Water Rights Specialist

MJM:

enclosures: applications, data sheet and maps

cc: Wayne R. Sherer

3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

App R-69708 R-12928 *Last revised: August 19, 2013*

Completeness Checklist for Permit Extension of Time Application

Minimum completeness criteria for Extension of Time Applications are set forth in OAR 690-086-0020(3) for NON-Municipal or NON-Quasi-Municipal permits and in OAR 690-086-0070(3) for Municipal or Quasi-Municipal permits.

☑ 1. Pull the permit file. If a copy of the permit is not in the file, pull up an image of the permit in WRIS.

☑ 2. Is the permit to be extended Non-Cancelled according to WRIS and the permit file? _____

If the permit has been cancelled, the Extension Application cannot be accepted.

☑ 3. Is the extension applicant's name and mailing address supplied? _____

If yes, is the applicant a permit holder of record *(i.e., permit issued or assigned to them)*? _____

If the extension applicant is **NOT** a permit holder of record, a "*Request for Assignment*" must be accepted and processed before the Extension Application can be processed.

If an Assignment has **not** yet occurred, and is **not** submitted with the Extension of Time Application, the application cannot be accepted.

* ***NOTE:*** The applicant **may** submit a complete "*Request for Assignment,*" at the same time, which **must** include the statutory fee of $85 for the assignment, required proof of ownership, or signature of previous permit holder, in addition to all necessary items required for the Extension of Time Application so that **both applications can be accepted.**

☑ 4. Is the appropriate Extension of Time Application used? _____

If the wrong application form is used, the Extension Application cannot be accepted.

- If a Municipal or Quasi-Municipal permit, use: "*Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits.*"
- If a NON-Municipal or NON-Quasi-Municipal permit, use: "*Application for Extension of Time for a Water Right Permit (Non-Municipal / Non-Quasi-municipal Water Use).*"

☑ 5. Are the requested date(s) for extension identified *(Page 1)*? _____

- Check the permit to see if it includes a "B-Date" and/or a "C-Date."

"B-Date" = date by which construction of the water delivery system for the permit is to be completed.
"C-Date" = date by which full beneficial use of water under the permit is to be accomplished.

NOTE: For permits with both a "B-Date and a "C-Date," the applicant will likely request an extension of both dates *(i.e., to complete construction of the water delivery/distribution system and to apply water to full beneficial use)*. Unless, of course, construction of the water delivery system is complete. In which case, the applicant would likely only request an extension of the "C-Date" *(i.e., to apply water to full beneficial use)*.

For permits with only a "C-Date," the applicant will only be requesting an extension of the date in which to apply water to full beneficial use.

☐ 6. Is the Extension Application signed (with an original signature) by permit holder(s) of record or an authorized agent? coming by mail this week

(If signed by agent, documentation from the permit holder(s) granting authorization for the agent to sign on their behalf must be provided or be present and current in the permit file.)

If **not** signed by a permit holder of record or authorized agent, the Extension Application cannot be accepted.

NOTE: If the permit covers land that has been subdivided and assigned to different, individual parties… we only need signatures of the permit holder(s) of record for the portion of the permit involved in the Extension of Time Application.

☑ 7. Are all questions on the application answered? _____

(NOTE: Supporting documentation such as: copies of the permit, well log(s), annual water use reports, static water level measurement reports, evidence demonstrating construction/work/water use accomplished, etc. may be included.)

The tables below are informational only. No need to check off.

■ **NON-Municipal or NON-Quasi-Municipal Permit Extension Applications:**

• **Ques. #1** - Information provided on beginning of construction ("A" Date) under the permit.	• **Ques. #5-C** - Well location information provided and whether a permit amendment is necessary.
• **Ques. #2** - Information provided on compliance with permit conditions.	• **Ques. #6** - Information provided on number of acres irrigated, if applicable.
• **Ques. #3** - Description provided of progress made in developing the permit.	• **Ques. #7** - Description provided of remaining work left to be accomplished to perfect the permit.
• **Ques. #4** - Monetary investment made in the project to date provided.	• **Ques. #8** - Description provided of estimated cost to complete the project associated with the permit.
• **Ques. #5-A** - Max amount of water beneficially used to date for a SW permit indicated.	• **Ques. #9** - Explanation provided of why the permit has not been fully developed/perfected.
• **Ques. #5-B** - Well construction information provided and max amount of water beneficially used to date for a GW permit indicated.	• **Ques. #10** - Justification provided of why the requested time is necessary to complete project.

■ **Municipal/Quasi-Municipal Permit Extension Applications:**

• **Ques. #2** – For Quasi-Municipal permits only, information provided on beginning of construction ("A" Date) under the permit.	• **Ques. #8** - Estimate provided of current peak water demand of the population served and the methodology used to make the estimate.
• **Ques. #3** – For Municipal permits issued on or after June 29, 2005, information provided on beginning of construction ("A" Date).	• **Ques. #9** - Explanation provided of why the permit has not been fully developed/perfected.
• **Ques. #4** - Description provided of progress made in developing the permit and financial expenditures made in the project to date.	• **Ques. #10-A** - Estimate provided of demand projection for the permit, the methodology used to make the estimate and anticipated date for full beneficial use of the permit.
• **Ques. #5-A & #5-B** - Information provided on compliance *(or non-compliance)* with permit conditions.	• **Ques. #10-B** – For extension requests greater than 50 years, documentation provided that the demand projection is consistent with the lands and uses proposed to be served by the permit holder.
• **Ques. #6-A** - Max amount of water beneficially used to date for a SW permit indicated.	• **Ques. #11** – Estimate of costs to complete the project and a summary of future schedule to complete construction / perfect the water right.
• **Ques. #6-B** - Well construction information provided and max amount of water beneficially used to date for a GW permit indicated.	• **Ques. #12** - Justification provided of why the requested time is necessary to complete project and/or apply water to full beneficial use.
• **Ques. #6-C** - Well location information provided and whether a permit amendment is necessary.	• **Ques. #14**- A copy of any agreements regarding use of the undeveloped portion of the permit and maintaining the persistence of fish, if applicable.
• **Ques. #7** – Estimate provided of current population served under the permit and the methodology used to make the estimate.	• **Attachment A** – A tabular inventory of the water supplier's water rights and any other water use authorizations.

☑ 8. Has the $575 fee been paid? 113493

***If applicable,** has the $85 fee for the Assignment been paid? _____

(As of July 1, 2013, the Extension of Time fee is $575, and Request for Assignment fee is $85)

If the fee has **NOT** been paid, the application cannot be accepted.

***NOTE: If the fee is the only item missing, contact the applicant to see if they can submit the fee with the next few days. If the applicant commits to submitting the fee within one week, hold the Extension Application, and explain to them that if it is not received the application will be returned (as we are required to keep any application, regardless of how complete, if retained by the Department as long as two weeks.*

☑ 9. If after completing this checklist, it is not clear whether the application can be accepted, please route both the money slip and Extension Application to **Extension Specialist,** or Anne Reece for municipal and quasi-municipal applications. One will either: **1)** accept the application; **2)** return the application; or **3)** prepare a deficiency letter.

Reviewed by: Steven Parrett Date: 9-22-14

☑ 7. Are all questions on the application answered? _____

(NOTE: Supporting documentation such as: copies of the permit, well log(s), annual water use reports, static water level measurement reports, evidence demonstrating construction/work/water use accomplished, etc. may be included.)

The tables below are informational only. No need to check off.

■ NON-Municipal or NON-Quasi-Municipal Permit Extension Applications:

▪ **Ques. #1** - Information provided on beginning of construction ("A" Date) under the permit.	▪ **Ques. #5-C** - Well location information provided and whether a permit amendment is necessary.
▪ **Ques. #2** - Information provided on compliance with permit conditions.	▪ **Ques. #6** - Information provided on number of acres irrigated, if applicable.
▪ **Ques. #3** - Description provided of progress made in developing the permit.	▪ **Ques. #7** - Description provided of remaining work left to be accomplished to perfect the permit.
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▪ **Ques. #5-A** - Max amount of water beneficially used to date for a SW permit indicated.	▪ **Ques. #9** - Explanation provided of why the permit has not been fully developed/perfected.
▪ **Ques. #5-B** - Well construction information provided and max amount of water beneficially used to date for a GW permit indicated.	▪ **Ques. #10** - Justification provided of why the requested time is necessary to complete project.

■ Municipal/Quasi-Municipal Permit Extension Applications:

▪ **Ques. #2** – For Quasi-Municipal permits only, information provided on beginning of construction ("A" Date) under the permit.	▪ **Ques. #8** - Estimate provided of current peak water demand of the population served and the methodology used to make the estimate.
▪ **Ques. #3** – For Municipal permits issued on or after June 29, 2005, information provided on beginning of construction ("A" Date).	▪ **Ques. #9** - Explanation provided of why the permit has not been fully developed/perfected.
▪ **Ques. #4** - Description provided of progress made in developing the permit and financial expenditures made in the project to date.	▪ **Ques. #10-A** - Estimate provided of demand projection for the permit, the methodology used to make the estimate and anticipated date for full beneficial use of the permit.
▪ **Ques. #5-A & #5-B** - Information provided on compliance *(or non-compliance)* with permit conditions.	▪ **Ques. #10-B** – For extension requests greater than 50 years, documentation provided that the demand projection is consistent with the lands and uses proposed to be served by the permit holder.
▪ **Ques. #6-A** - Max amount of water beneficially used to date for a SW permit indicated.	▪ **Ques. #11** – Estimate of costs to complete the project and a summary of future schedule to complete construction / perfect the water right.
▪ **Ques. #6-B** - Well construction information provided and max amount of water beneficially used to date for a GW permit indicated.	▪ **Ques. #12** - Justification provided of why the requested time is necessary to complete project and/or apply water to full beneficial use.
▪ **Ques. #6-C** - Well location information provided and whether a permit amendment is necessary.	▪ **Ques. #14**- A copy of any agreements regarding use of the undeveloped portion of the permit and maintaining the persistence of fish, if applicable.
▪ **Ques. #7** – Estimate provided of current population served under the permit and the methodology used to make the estimate.	▪ **Attachment A** – A tabular inventory of the water supplier's water rights and any other water use authorizations.

☑ 8. Has the $575 fee been paid? 113493

*If applicable, has the $85 fee for the Assignment been paid? _____

(As of July 1, 2013, the Extension of Time fee is $575, and Request for Assignment fee is $85)

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☑ 9. If after completing this checklist, it is not clear whether the application can be accepted, please route both the money slip and Extension Application to **Extension Specialist,** or Anne Reece for municipal and quasi-municipal applications. One will either: 1) accept the application; 2) return the application; or 3) prepare a deficiency letter.

Reviewed by: Steven Parrett Date: 9-22-14

R 69708

Bandon Cranberry
Water Control District
P.O. Box 1832, Bandon, OR 97411

Windhurst Reservoir Water Allocation

Project Report Updated May 3, 2012

Acre Feet Distributed 421 100.00%

Equity	Subscriber	Contact	Acre Feet	% of Total
1	Bauge	Brant & Kim	5	1.19%
2	Davis	Dan	35	8.31%
3	Haga	Ron	70	16.63%
4	Kids Place	Guy Scherer	45	10.69%
5	Manicke, Judy	Scott Vierck	60	14.25%
6	Richert	Doug	26	6.18%
7	Scherer	Wayne	65	15.44%
8	J& K Cranberries	John Roth	105	24.94%
	Sub Total		**411**	**97.62%**

Contract	Subscriber	Contact	Acre Feet	% of Total
1	Ocean Spray Cranberries Inc.		5	1.19%
2	Sassamanesh	Schaer, Mike & Julie	5	1.19%
	Sub Total		**10**	**2.38%**

Oregon
John A. Kitzhaber, MD, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

April 14, 2011

Clay Jordan
Jordan Engineering
460 Jordan Lane
Roseburg, OR 97471

RE: Permit R-12928.
Recent letter to Director Ward

Dear Mr. Jordan,

Director Ward and I have discussed your letter to him dated April 6, 2011. He asked me to let you know that we will have a broader internal discussion of the issues you raise in your letter after which we will contact you.

Please feel free to contact me at any time if you would like an update on this issue. My number is 503-986-0819. Email: dwight.w.french@state.or.us

Sincerely,

Dwight French
Water Right Services Division

Cc: Phillip C. Ward
Thomas Paul
Tim Wallin
File S-69708 (Permit R-12928)

Jordan Engineering
Structural-Civil-Geotech
460 Jordan Lane
Roseburg, OR 97471
541-673-1931

Mr. Phillip Ward, Director
Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

Permit: R-12928
Windhurst Road Watering Corporation:
Current restrictions being applied on
historical precedence of new sales

April 6, 2011

Mr. Ward:
I would like to bring to your attention an economic burden being placed on my client's multi-million dollar project through current limited internal Departmental interpretations. These interpretations are countering years of Departmental's historical success in implementing to Claim of Beneficial Use (COBU) by submitting correcting conclusions of over allocations within permit conditions.

In particular this project has a history of success from its conception with the developers, the late Mr. John M. Youngquest (Past watermaster and then client representative) and Departmental staff including other historical reservoirs. These reservoirs always have full control, by metered in and metered out of the reservoir usage within permits. Thereby monitoring allocated use of permits with no injury to and/or enlargement during the permit stage and at COBU. This is within the Department's goals of "beneficial use" encouragement by implementing efficiencies through recirculation of water. In other words historically, the Department has issued permits for use of stored water that exceed the total permitted storage capacity of the source reservoir. Also, over allocation of reservoir stored water has historically been cleared up at the time of COBU for the use permits. This is important as a permit to use water is simply a permit to develop a water use within the limits of the permit. It is not realistic to demand the permittee specify what the end development will be before the completion date or extended completion date. In this case, the economic climate will likely dictate development toward the smaller reservoirs to the maximum allowed by the permit. The number of total acres developed under the original use permit will be will be reduced, thus leaving excess water available from Windhurst reservoir. In addition, efficiency of use will likely be lead to less water and storage needed.

This permit in general not having the legislative tools of today, such as multi-purpose storage, as discussed with Department staff and watermasters have a successful history of permit "over allocation" with required metering to adjust Departmental in-house interpreted 2.5 to 7 acre foot to acre use in the COBU. This is historically without injury and/or enlargement of the reservoir permit. This reservoir permit has successfully permitted "over allocation" (on paper only) to Ocean Spray at 5 acre foot and Mr. Dan Davis at 35 acre foot. The permit is in extension to

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SALEM, OREGON

perfected usage and storage of the permit's total 614 acre foot of smaller multiple reservoirs within the permit's reservoirs including the 470 acre foot completed main Windhurst reservoir in question. The permit usage from the main reservoir is clearly listed in the inclosed "Existing Water Sales Attachment" showing with recirculating within the permit to COBU and attached proposed "Existing Water Sales Affidavit" there will be no injury and/or enlargement of the permit. This can easily be noted in each of the Departmental's associated files.

In comment to past Departmental correspondence with Mr. Wallin and Ms. Kavanagh, it is our understanding per phone conversations, the Department's concerns have resolved to the affidavit assuring the Department of no enlargement. Each time after several days of the phone draft decisions it reverts back to the original request of new Departmental current interpreted implementing of the permit. As we understand there are three points trying to be newly applied to this project: 1) All board members to sign any new documents. 2) Permit use S-53703 diminishment reflecting new sales to Mr. John Roth (application S-87597) and 3) A map reflecting the permit S-53703 diminishment.

Addressing all three:

1. The only one authorized to sign regarding the permit is the one named on the permit. In this case it is the Windhurst Road Watering Corporation to which currently Mr. Ron Haga is the Chairman of the Corporation.
2. At date, with permit extension, there is no permit diminishment intended as it is not known at this time the total storage that will be developed in the smaller reservoirs and what the final footprint acreage will be. Also with ever increasing efficiencies of recirculation, diminishment is inappropriate and not needed with the main reservoir's metering controls to safe guard no injury and/or enlargements.
3. As noted in item 2 therefore no map is needed as there is no intention and/or need of diminishment of the permit. We believe it is inappropriate to request a map of land to be diminished prior to the completion date, not knowing what the final footprint of use will be or what the final development of small reservoirs will be. The Windhurst Road Watering Corporation is ultimately responsible to deliver contracted stored water within the limits of all permits. If there is insufficient water available in a given year, It is no different than a Watermaster regulating water use in times of shortage.

It has also been brought to our intention, while previously negotiating a final point of affidavit to completion of Mr. Roth's application S-87597 to a permit, we received a letter dated March 24, 2011 from Ms. Kavanagh (see attached) basically reflecting back to Mr. Wallin's original request as noted in items 1 through 3. This permit is identical to the Ocean Spray and Dan Davis as noted above. It is assumed unless otherwise notified the deadline of April 25, 2011 is indefinitely extended until the main matter of this letter is resolved.

Lastly if this letter does not articulate a positive permit issuance to Mr. Roth reflecting past Departmental history of use, please accept this letter as requesting a meeting with you, Mr. Roth,

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SALEM, OREGON

Mr. Haga and their representatives including Mr. Norm Daft and me at your earliest convenience.

In conclusion, use of the reservoirs' permitted 614 acre foot total, including the 470 acre foot of questioned Windhurst sales, will not be exceeded during the permit stage and/or at COBU therefore:

1. There are no injuries.
2. There are no enlargements.

Respectfully,

Clay Jordan, P.E., S.E., Geotech, CWRE

file: R12928 Newsales Director-Request.wpd
cc: 1. Mr. Ron Haga
2. Mr. Wayne Scherer
3. Mr. John Roth
4. Mr. Norm Daft
Inclosures: (3)

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SALEM, OREGON

INCLOSURES (1)

Windhurst Road Watering Corporation
88860 Haga Ln.
Bandon, OR 97411

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

Existing Water Sales Attachment:
Within Permit R-12928
470 acre-feet "Windhurst"

February 3, 2011

OWRD:
Current redistribution allocation of original (not to exceed) 470 af or less at COBU out of the main"Windhurst" reservoir. The current internal "living" allocation of Windhurst Reservoir water within its permit extension is as follows:

Permit S-53703 - Windhurst Road Watering Corporation: (original five)

Ron Haga	70 af	Equity Subscriber	
Judy Manicke	60 af	Equity Subscriber	
Doug Richert	26 af	Equity Subscriber	
Wayne Scherer	65 af	Equity Subscriber	
Kids Place (Scherer)	45 af	Equity Subscriber	
			Sub Total = 266 af

Permit S-53998 - Ocean Spray Cranberries Inc.:

Ocean Spray	5 af	Non-Equity Subscriber	Sub Total = 5 af

Permit S-54479 - Dan Davis:

Dan Davis	30 af	Equity Subscriber	
Dan Davis	5 af	Equity Subscriber	
			Sub Total = 35 af

Application S-87597 - John Roth:

John Roth	45 af	Equity Subscriber	
John Roth	60 af	Non-Equity Subscriber	
			Sub Total = 105 af
*Paul Bauge:	5 af	Equity Subscriber	Sub Total = 5 af*
*Mike & Julie Schaer:	5 af	Non-Equity Subscriber	Sub Total = 5 af*
		(as of date)	TOTAL = 421 af

* = Pending permit application issued.

Respectfully,

Mr. Ron Haga: Chairman, Windhurst Road Watering Corporation

cc: Clay Jordan, CWRE
Jordan Engineering

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WATER RESOURCES DEPT
SALEM, OREGON

INCLOSURES (2)

Windhurst Road Watering Corporation
88860 Haga Ln.
Bandon, OR 97411

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

Existing Water Sales Affidavit:
Within Permit R-12928
470 acre-feet "Windhurst"

February 3, 2011

OWRD:
The Windhurst Road Watering Corporation so named in the Permit R-12928 as Haga (Ron Haga), Scherer (in part Guy Scherer), Scherer (in part Wayne Scherer), Manicke (Judy Manicke) and Richert (Fred Richert) as of date superseding previous affidavits so directing as noted below.

See Existing Water Sales Attachment dated February 2, 2011 attached.

The 421 acre-feet, as noted in attachment, is in total as of date stored water from "Windhurst" in use as noted per application/permits within the existing extension to perfection of the maximum 470 acre-feet "Windhurst" reservoir.

Furthermore if the perfection to COBU certification of that part of Permit R-12928 being the 470 acre-feet maximum in the "Windhurst" reservoir at time of COBU is less than the 470 acre-feet, the original five so named above associated permits, will be adjusted to COBU perfection. All permits issued for use of Windhurst Reservoir water, to include S-53703, will be adjusted within the permits S-53703 and R-12928 at time of proof, so as to not exceed the actual capacity of the reservoir's permitted 470 acre-feet.

_____ _____

Signature of Affiant Date

Mr. Ron Haga: Chairman, Windhurst Road Watering Corporation

Signed and sworn to (or affirmed) before me this _____ day of _____, 20 _____

_____

Notary Public for Oregon

My Commission Expires: _____

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WATER RESOURCES DEPT
SALEM, OREGON

INCLOSURES (3)

Oregon
Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

CERTIFIED MAIL
Return Receipt Requested

March 24, 2011

JOHN ROTH
PO BOX 362
BANDON, OR 97411

Reference: File S-87597

Dear Mr. Roth:

On January 31, 2010, the Water Resources Department received your application under the expedited review process, ORS 537.147, proposing the appropriation of 105.0 acre-feet (AF) of stored water from Windhurst Reservoir, constructed under Permit R-12928. However, water is not available for the proposed use under your application because the stored water in Windhurst Reservoir is fully appropriated under Permit S-53703.

Several Department staff members, including myself, have had numerous telephone conversations with your agent attempting to explain what is required in order to proceed with the processing of your application. Based on the application materials submitted and the Department's records, your application will most likely be denied because water is not available.

In order to continue processing the application with a possible positive outcome, you will need to provide the following items:

- Notarized affidavit(s) diminishing Permit S-53703 to include the name, signature, and date for each of the owners of Windhurst Reservoir in order to make stored water available for your proposed use.

- A corresponding map showing acreage that will be diminished/dried in order to account for a reduction in the volume of stored water described in Permits R-12928 and S-53703. Permit S-53703 describes the appropriation of stored water from Windhurst Reservoir (470.0 AF) and 23 other reservoirs (a total of 144.0 AF) for cranberry operations on 162.4 acres, agricultural use on 27.7 acres, and supplemental cranberry operations on 18.1 acres. The map needs to identify the lands where the stored water from Windhurst Reservoir is being applied and which lands are being diminished or dried.

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WATER RESOURCES DEPT
SALEM, OREGON

If there are no lands that will be "dried", please provide a map of all lands that utilize stored water from Windhurst Reservoir and describe how beneficial use will be made with a diminished amount of water.

The affidavits will be executed simultaneously with any positive Final Order and permit.

Please submit this information no later than April 25, 2011. If you are unable to submit the information listed above, you may request an administrative hold for up to 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with Final Order recommending denial of the application. Any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

Feel free to contact me 503-986-0816 with questions.

Sincerely,

K Kavanagh

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APR 08 2011
WATER RESOURCES DEPT
SALEM, OREGON

Kerry Kavanagh
Water Rights Application Caseworker

cc: WM# 19
WRD - Tim Wallin, Water Rights Program Manager
File
Clay Jordan, Jordan Engineering, 460 Jordan Lane, Roseburg, OR 97471
Ron Haga, Chairman,
Windhurst Road Watering Corporation, 88860 Haga Lane, Bandon, OR 97411

Jerry Sauter

From: Kcjengineer@aol.com

Sent: Tuesday, November 02, 2010 12:34 PM

To: jerry.k.sauter@state.or.us; normthewaterguy@charter.net

Subject: Windhurst: progress reports, R-12928 & S-53703

R-69709 S-69654

Jerry:
Per our phone call be advised the two reports were to be submitted by Oct. 1, 2010. In awareness of its complications we have been asked by the clients to address these two reports. There are several members of individual ownerships that we will need to gather information from to compile a respectful report. It is therefore requested that the reports submitting date be extended for several weeks. We apology for any inconveniences. Please let me know if this is acceptable.
Thanks, Clay Jordan

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-69708

Final Order
Extension of Time for Permit Number R-12928

Appeal Rights

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Application History

Permit R-12928 was issued by the Department on October 10, 2000. The permit called for complete application of water to beneficial use by October 1, 2005. On March 6, 2009 Windhurst Road Watering Corporation submitted to the Department an Application for Extension of Time for Permit R-12928. In accordance with OAR 690-315-0050(2), on September 1, 2009 the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2014. The protest period closed October 16, 2009 in accordance with OAR 690-315-0060(1). No protest was filed.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to the following conditions:

CONDITIONS

1. **Checkpoint Condition**

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2010.** ***A form will be enclosed with your Final Order.***

(a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;

(b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

Order

The extension of time for Application R-69708, Permit R-12928, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use is extended to October 1, 2014.

DATED: November 3, 2009

Dwight French, Administrator of
Water Rights and Adjudications
for
Phillip C. Ward, Director

- If you have any questions about statements contained in this document, please contact Scott Kudlemyer at (503) 986-0813.

- If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900

Mailing List for Extension FO Copies

Note: Include a copy of the "Important Notice" document along with the original copy of the Final Order being sent to the permit holder.

FO Date: November 3, 2009

Copies Mailed

By: DLS
On: 11/2/09

Application R-69708
Permit R-12928

Original mailed to permit holder

Windhurst Road Watering Corportation
PO Box 503
Bandon, OR 97411

Copies sent to:

1. WRD - App. File R-69708/ Permit R-12928
2. WRD - Watermaster District 19, Mitch Lewis
3. WRD – SWR Regional Manager, Bruce Sund
4. WRD – George Robison, Dam Safety
5. ~~WRD - Support Staff~~, Salem

Fee paid as specified under ORS 536.050 to receive copy:

6. None

Receiving via e-mail (10 AM day of signature date)

7. None

If Progress Reports are included:

Add record to Progress Report tracking sheet.xls Done: by SBK Date 10/30/09

CASEWORKER: SBK

Mailing List for Extension PFO Copies

PFO Date: September 1, 2009

Copies Mailed

Application R-69708
Permit R-12928

By: JAS
On: 9/11/09

Original mailed to Applicant:

Windhurst Road Watering Corporation
PO Box 503
Bandon, OR 97411

Copies sent to:

1. WRD - App. File R-69708/ Permit R-12928
2. WRD - Watermaster District 19, Mitch Lewis

Fee paid as specified under ORS 536.050 to receive copy:

3. None

Receiving via e-mail (10 AM Tuesday of signature date)

4. None

CASEWORKER: SBK

Application # R-69708 Permit # R12928

Public Notice Route Slip ... New Application Extension of Time
per Division 315 Rules... (Extensions received on July 1, 2001 or after)

- **WRIG...**
  Money Receipted on: 3/6/09
- **Extension Specialist...**
  - ☑ Added to tracking spreadsheet

After fee is receipted and app is added to spreadsheet, route to...

- **Jonnine Skaug...**
  - ☒ Publish on Public Notice (initial 30-day comment): Date of notice 3-17-09
  - ☒ Update WRIS Database
  - ☒ In the "PNotice Date" field... Enter the date the Extension Application was published on the Public Notice.
  - ☒ In the "Ext Filed" field... Enter the date the Extension Application was received.

Yes or (No:) Return file to Extension Specialist after PN

Oregon
Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

March 13, 2009

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Rights Section has received your application for an extension of time for **APPLICATION FILE#:R-69708 (PERMIT#:R-12928).** Your application will be reviewed in the near future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

If you have questions concerning your extension of time application, please contact Scott Kudlemyer at (503) 986-0813. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's Internet home page at: "**www.wrd.state.or.us**".

Oregon
Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

March 13, 2009

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Oregon
Theodore R. Kulongoski, Governor

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North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

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Jordan Engineering
Structural & Civil
460 Jordan Lane
Roseburg, OR 97471
541-673-1931

Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

Application for Extension of Time
Windhurst Road Watering Corporation
Permits:
R-12928 & S-53703

March 4, 2009

Sir:
Inclosed are the two extension of time applications with supporting as issued permits and a check #1030 in the sum of $700 ($350 +$350). The copies of permits have added hand numbers at conditions reflecting as noted in the applications.

Please process as quickly as possible. If there are any questions or corrections please contact either myself and/or my assistant, Mr. Norm Daft.

Respectfully,

Clay Jordan, P.E., S.E., CWRE

file: WRD 2-extensions.wpd
cc: Mr. Ronny O. Haga
Mr. Norm Daft

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SALEM, OREGON

Jordan Engineering
Structural & Civil
460 Jordan Lane
Roseburg, OR 97470
541-673-1931

Water Resources Department
Mr. Gerald E. Clark
725 Summer St. NE
Suite A
Salem, OR 97301

Permit R-12928
Extension of time

R69708

July 17, 2007

Mr. Clark:
Mr. Ron Haga, Chairman of the Windhurst Road Watering Corporation has solicited my services as a Water Right Examiner to address an extension of time for the above noted permit. The client has requested I proceed with that which the late Mr. John Youngquist had started. Upon investigation of Mr. Youngquist's files it is apparent the process is only in its initial draft stages.

My assistant, Mr. Norm Daft will be researching the complexity of the multiple reservoirs of required information including their degree of complection in order to present the application. As soon as we can get a reasonable handle on our time frame for the extension of time application, that information will be forward to you.

It is therefore, the clients request that the department extends a reasonable time for the extension of time application to be prepared and delivered to the department.

Respectfully,

Clay Jordan, P.E., S.E., CWRE

file: Proj_start notice.wpd
cc: Mr. Ron Haga
Mr. Norm Daft

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JUL 19 2007
WATER RESOURCES DEPT
SALEM, OREGON

Oregon
Theodore R. Kulongoski, Governor

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

April 24, 2003

Ron Haga
c/o Windhurst Road Watering Corporation
Route 1, Box 209 S.
P.O. Box 503
Bandon, OR 97411

Water Rights

Re: Windhurst Reservoir, File W-16
Application R-69708, Permit R-12928

Dear Mr. Haga:

Thank you for returning my telephone call the other morning to discuss the referenced project. As you recall, our previous inspection was performed on 6/27/00 shortly after the dam was built, but prior to the reservoir being filled. I regret being unable to meet with you during my most recent inspection of the dam on Thursday, 4/17/03. However, the following report summarizes my observations and recommendations for maintenance or repair, and also includes request for specific information necessary for completion of this project.

At the time of my site visit, the reservoir level measured approximately 18.5 feet on the staff gage, 8 feet below the design maximum pool elevation of 326.5 feet. The weather was cloudy and cool with occasional showers, and the ground was damp from recent rain. Based on my observations and review of the approved design plans and specifications, we recommend the following items be corrected to help ensure the safety of the dam and to protect your investment:

1). The upstream (inside) slopes of the perimeter embankment are flush with alder saplings, and the outside slopes are beginning to sprout fir seedlings. As they mature, their roots will grow to seek a water source and in the process disturb the compacted fill, gradually creating pathways for seepage. It is important that all woody vegetation be prevented from growing on any portion of the dam.

2). Remove the sandbags that have been placed on the lip of the concrete overflow box surrounding the 30" diameter emergency overflow pipe. Even though they may have been placed "temporarily" to prevent wind-generated waves from splashing water out of the reservoir, this is a potentially dangerous practice that needs to be discontinued.

3). Repair the eroded rills and gullies on the outside slopes of the embankment, particularly in the general areas surrounding Station 25+00 (Photo #1) and Station 29+00 (Photo #2). The maximum height of embankment fill materials occur at these two locations and their corresponding slope lengths have proven to be susceptible to erosion. Although the rate of erosion appears to have stabilized, the vegetative cover is sparse and offers little resistance to runoff that would be concentrated in the bottoms of the channels during heavy rainfall. One method suggested for repair is to fill the gullies with well graded and free-draining gravel between 1/4" to 3" diameter, nominal size.

4). Continue to monitor the seepage out of the base of the slope, and report immediately any muddy

discharge or sudden increases in flow rates. At the time of my inspection, the lower slopes generally were wet and soggy. The base of the slope in the vicinity of Station 25+00 and Station 29+00 was passing the equivalent of 5-to-10 gpm and 12-to-15 gpm, respectively, most of it originating from the bottoms of the eroded channels. Another area to watch is the marshy area along the north property line.

5). We understand the water level readings from the monitoring wells located in the embankment have been submitted to your engineer for analysis. For the immediate future, please continue to make periodic (weekly) measurements whenever the reservoir is storing water and continue to collect the data for subsequent analysis, if it should ever become necessary at a later time. If you are uncomfortable with keeping and maintaining a record of monitor well readings, you can submit a copy of the raw data to this office on a quarterly basis.

Also, as mentioned, the project cannot be finalized until you (and your engineer) have satisfactorily addressed the following items:

- One of the permit conditions states that "no water shall be stored until WRD has received written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications". Apparently, this office has misplaced the original letter from your engineer. Therefore, please be so kind as to send us another as soon as possible.
- The letter should be accompanied by a set of record (asbuilt) drawings. The drawings must include *all changes* that occurred prior to or during construction such as toe drains, monitor wells, etc. The asbuilt drawings should be drafted on quality reproducible stock.
- On the drawings, or separately, prepare an area/capacity diagram or stage/storage table that accurately lists reservoir storage and surface area vs. pool elevation.
- Please submit a copy of the monitoring well readings that have been collected to date.

It is important that the engineer certify the finished product because, without proper documentation, the project cannot receive a Certificate of Water Right, the final step in the legal process to appropriate water.

If you have any questions, please do not hesitate to let me know. I look forward to receiving the letter of completion, asbuilt drawings, and other information.

Sincerely,

John Falk, P.E.
Safety of Dams

c: WRD Water Rights Section
Watermaster District #19
Frank Toor, C.E.G.
Ralph Dunham, P.E. - Stuntzner Engineering
David Driscoll, P.E. - Geotechnical Resources

~~6456~~ S 69654; R 69708

USER-ID 50180

2000 2001

Oregon Water Resources Department
October 2000 through September 2001
Annual Water Use - Monthly Quantities Form

Facility ☞ POD-ID ✏	51837-51853	and 51894-51916 all AG/CR			
October - 2000					
November - 2000					
December - 2000					
January - 2001			2001		
February - 2001			in 2002		
March - 2001		report in			
April - 2001	No	begin			
May - 2001		with			
June - 2001					
July - 2001					
August - 2001					
September - 2001					
TOTAL *					

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SALEM, OREGON

* Describe the units of measure as G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)

Describe method of measuring the water used: _____. If use is irrigation, total number acres irrigated _____

I certify this information is true and accurate to the best of my knowledge.

M. [signature] Signature | Consultant Title | Border Cranberry W.C.O. Reporting Entity | 02-07-02 Date



M. JOHN YOUNGQUIST
WATER RESOURCES CONSULTANT
827 SE MOSHER
ROSEBURG, OREGON 97470
PHONE/FAX: (541) 672-5692
Email: mjywater@sorcom.com



February 8, 2002

Mary S. Grainey, Water Use Program Coordinator
Oregon Water Resources Department
158 12th Street, NE
Salem, Oregon 97301

RE: Annual Water Use Reporting - Permit R-12928 and Permit S-53703

Dear Ms. Grainey:

This letter is in response to your notice of January 7, 2002. There will not be a report for the 2000 - 2001 water year from the Windhurst Road Watering Corp.

The completion of construction of the main Windhurst Road Reservoir and pump station on Bills Creek was completed in late April, 2001. The applicants pumped only enough water into the reservoir to test the diversion works and lower level conduits in the reservoir. Water was not delivered to the acreage described on permit S-53703 from Bills Creek. Evaporation and seepage data was gathered for technical purposes. The water pumped was in accordance with the memorandum of understanding with the Oregon Department of Fish and Wildlife and permit conditions.

An emergency supply was delivered via metered pipeline to Johnson Creek to mitigate water used from wells by the Ocean Spray Receiving Station. Ocean Spray had a limited license to do accomplish this. A total of 5 acre feet of water was delivered to Johnson Creek during the month of October.

Water use will begin in the 2002 cranberry growing season. This winter measuring devices have been obtained for all pipelines and pumps. During the 2001 season, staff gages were installed in all reservoirs, Bear Creek and Bills Creek. With the exception of the use of 5 acre feet of storage for Ocean Spray, no other water was used in accordance with the two permits noted above.

If you have any questions, please contact me.

Yours truly,

M. John Youngquist

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FEB 1 1 2002
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SALEM, OREGON

cc: Ron Haga, Chairman Windhurst Road Sub District
Wayne Scherer, Chairman Bandon Cranberry Water Control District

Mailing List for Protested Application Copies

Application APPNUM R 69708 FO Date FODATE

Original mailed to:

Applicant: Windhurst Road Water Corporation
P.O. Box 503
Bandon, OR 97411

Copies Mailed
By: cap
(SUPPORT STAFF)
on: 10-12-00
(DATE)

Copies sent to:
1. WRD - File # APPNUM R 69708
2. WRD - Water Availability: Ken Stahr

Send Copy of Permit

~~PFO, Map, and Fact Sheet~~ Copies sent to:
3. WRD - Watermaster # 19
4. WRD - Regional Manager (not Bob Main): SWR
5. ODFW District Biologist: Tom Loynes & Mike Gray

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

6. M. John Youngquist, 827 Mosher Ave., Roseburg, OR 97470
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

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

1. _____
2. _____
3. _____

CASEWORKER : RM

Mailing List for Protested Application Copies

Application S-69654 and R-69708 List Print Date October 3, 2000

Original mailed to:

Applicant: Windhurst Road Water Corporation, P.O. Box 503, Bandon, OR 97411

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

Copies sent to:
1. WRD - File # S-69654 and R-69708
2. WRD - Water Availability: Ken Stahr

PFO, Map, and Fact Sheet Copies sent to:
3. WRD - Watermaster #19
4. WRD - Regional Manager: SWR
5. ODFW District Biologist: Umpqua District 1(Tom Loynes and Mike Gray)

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

6. James Gosson (CWRE)

7. M. John Youngquist, 827 Mosher Avenue, Roseburg, OR 97470

8. Ronny and Gloria Haga, Route 1 Box 2095, Bandon, OR 97411

9. Bruce Mancke, P.O. Box 584, Bandon, OR 97411

10. David Richert, P.O. Box 86, Bandon, OR 97411

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

1. Ivan and Tracy Hultin, 96784 Woodland Lane, Bandon, OR 97411

2. Coos Co Hwy Department, Coos County Court House Annex, Coquille, Or 97411

3. Lowell and Mary Meyer, P.O. Box 582, Bandon, OR 97411

4. City of Bandon, 555 US Hwy 101, P.O. Box 67, Bandon, OR 97411

To: Russell.W.KLASSEN@wrd.state.or.us
Subject: Application R-69708 - Windhurst Road

Dear Mr. Klassen:

Thank you for your call this date. It is the intention of the Windhurst Road Sub District to construct Bee Sting Reservoir in such a manner as not to need Engineered Plans and Specifications. Their inspector, Frank Toor, CEG, and their engineer, Stutzner, Inc., will set monuments so the dam will be less than 10 foot in height, strive for 9.5 - 9.8 feet.

Please amend the application to reflect this.

John Youngquist for the Windhurst Road Subdistrict.

Application R-69708

COPY CHECK-OFF SHEET FOR ~~PROPOSED~~ FINAL ORDERS

CC: FILE # R-69708

WATERMASTER # 19

REGIONAL MANAGER: ~~SOUTH CENTRAL~~ SW

ODF&W - Coos County:

CWRE (if agent): JAMES F GOSSON #054

DEQ

OTHER STATE AGENCY IF NECESSARY: KEN STAHR, OWRD, WATER AVAILABILITY SECTION

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; FRONT COUNTER

OTHER ADDRESSES OF PEOPLE WHO PAID THE $10 FEE:

M John Youngest 827 SE Mosher Roseburg, OR 97470

Jill Zarnowitz, ODFW
Portland, OR

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

COOS COUNTY HIGHWAY DEPARTMENT COOS COUNTY COURTHOUSE ANNEX COQUILLE, OR. 97423
LOWELL AND MARY MEYER P.O. BOX 582 BANDON, OR. 97411
ROGGE FOREST PRODUCTS BANDON, OR. 97411
CITY OF BANDON CITY HALL BANDON, OR. 97411

CASEWORKER : ~~GH~~

STATE OF OREGON

COUNTY OF COOS

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION
PO BOX 503 (541)347-3062
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: R-69708

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK

POINT OF DIVERSION LOCATION: NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH AND 2480 FEET EAST FROM W1/4 CORNER SECTION 3

STORAGE FACILITIES: 23 RESERVOIRS BEING WINDHURST: HAGA 1,2,3,4; BEE STING; SCHERER 1,2,3,4,5,6,7,8; MANICKE 1,2,3,4; RICHERT 1,2,3,4,& 5

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER PERMIT 53703 FOR CRANBERRY OPERATIONS.

VOLUME OF USE: 614 ACRE-FEET EACH YEAR, BEING 470 ACRE-FEET IN WINDHURST, 9.1 ACRE-FEET IN HAGA #1, 5.0 ACRE-FEET IN HAGA #2, 2.9 ACRE-FEET IN HAGA #3, 6.0 ACRE-FEET IN HAGA #4, 23.0 ACRE-FEET IN BEE STING, 1.4 ACRE-FEET IN SCHERER #1, 1.4 ACRE-FEET IN SCHERER #2, 5.6 ACRE-FEET IN SCHERER #3, 7.0 ACRE-FEET IN SCHERER #4, 1.5 ACRE-FEET IN SCHERER #5, 4.2 ACRE-FEET IN SCHERER #6, 7.7 ACRE-FEET IN SCHERER #7, 4.2 ACRE-FEET IN SCHERER #8, 9.1 ACRE-FEET IN MANICKE #1, 9.1 ACRE-FEET IN MANICKE #2, 9.1 ACRE-FEET IN MANICKE #3, 2.7 ACRE-FEET IN MANICKE #4, 5.6 ACRE-FEET IN RICHERT #1, 9.1 ACRE-FEET IN RICHERT #2, 9.1 ACRE-FEET IN RICHERT #3, 5.6 ACRE-FEET IN RICHERT #4, AND 5.6 ACRE-FEET IN RICHERT #5

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH MAY 31

DATE OF PRIORITY: SEPTEMBER 6, 1988, FOR 100 ACRE-FEET AND JUNE 1, 1994, FOR 514 ACRE-FEET

INSTANTANEOUS DIVERSION RATE: THE MAXIMUM DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED

UNDER ANY PERMIT FOR APPLICATION S-69654, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW:

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the live flow diversion authorized under any permit for application S-69654, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application S-69654, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application S-69654, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for S-69654 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

The area submerged by the Windhurst Reservoir, when full, will be 23.0 acres and the maximum depth of water will be 24.0 feet. The maximum height of the dam shall not exceed 28.0 feet.

The area submerged by the Haga Reservoir #1, when full, will be 2.6 acres and the maximum depth of water will be 9.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #2, when full, will be 0.8 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #3, when full, will be 0.5 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #4, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Bee Sting Reservoir, when full, will be 2.0 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Scherer Reservoir #1, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #2, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #3, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #4, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #5, when full, will be 0.5 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #6, when full, will be 0.7 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #7, when full, will be 1.0 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #8, when full, will be 0.5 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Manicke Reservoir #1, when full, will be 1.1 acres and the maximum depth of water will be 11.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #4, when full, will be 0.3 acre and the maximum depth of water will be 10.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Richert Reservoir #1, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #3, when full, will be 0.7 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #4, when full, will be 0.7 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #5, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

THE AREAS TO BE SUBMERGED BY THE RESERVOIR ARE LOCATED AS FOLLOWS:

NE 1/4 NE 1/4	MANICKE #1
SECTION 32	
NW 1/4 NW 1/4	MANICKE #2
SW 1/4 NW 1/4	MANICKE #2,3
SE 1/4 NW 1/4	MANICKE #4
SECTION 33	
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.	
NW 1/4 SW 1/4	HAGA #1
SECTION 3	
SW 1/4 NW 1/4	SCHERER #5
NE 1/4 SW 1/4	BEE STING
NW 1/4 SW 1/4	SCHERER #7,8
SW 1/4 SW 1/4	HAGA #4
SE 1/4 SW 1/4	HAGA #2,3, BEE STING
NE 1/4 SE 1/4	WINDHURST, HAGA #4
NW 1/4 SE 1/4	WINDHURST
SECTION 4	
NE 1/4 NE 1/4	SCHERER #3
SW 1/4 NE 1/4	SCHERER #1
SE 1/4 NE 1/4	SCHERER #2,3,4
NE 1/4 SE 1/4	SCHERER #6
SECTION 5	
NE 1/4 NE 1/4	RICHERT #2
NW 1/4 NE 1/4	RICHERT #1,3
SW 1/4 NE 1/4	RICHERT #5,4
SECTION 9	
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.	

Measurement, recording and reporting conditions:

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

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

Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

No fill shall be placed until preparation of the foundation has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

Any significant change in the approved design prior to or during construction shall be documented by the engineer of record in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

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

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

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.

STANDARD CONDITIONS

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2005.

Issued October 10 , 2000

Dwight French for

Paul R. Cleary, Director
Water Resources Department

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NOV - 7 1997
WATER RESOURCES DEPT.
SALEM, OREGON

State of Oregon
Water Resources Department

In the matter of Water Right)
Application R-69708)
Windhurst Road Water Corporation)

Agreement and
Stipulated Final Order

Application History

On September 6, 1988, Windhurst Road Water Corporation submitted an application to the Department for a water use permit. The proposed use requested to store 100 acre-feet of water in an on-channel reservoir for cranberry operations. The proposed location and source of water was Bill Creek, tributary to Bear Creek and within the Coquille River Basin.

In April 1989, pursuant to OAR 690-11-080(2)(a)(C), the request was presented to the Water Resources Commission for a determination of whether a public interest hearing was necessary (Agenda Item G, WRC Meeting April 17, 1989). The Commission voted to hold a public interest hearing due to fisheries concerns raised by the Oregon Department of Fish and Wildlife (ODFW). On August 10, 1989, a contested case hearing was set for October 11, 1989, by Administrative Law Judge (ALJ) Weisha Mize. Parties named to the proceeding are the applicant, ODFW, and the Department. On the unopposed motions of the applicant the hearing has been continued several times to allow for settlement negotiations and application modifications.

On June 1, 1994, the application was amended from one on-channel reservoir storing 100 acre-feet to 23 off-channel reservoirs storing 614 acre-feet. The source of water was not modified.

The Department processed the amended application under Senate Bill 674 (1995 Legislative Session) and on August 6, 1996, conditionally approved the use. The Department's Proposed Order does not change contested case party status. On September 18, 1996, the applicant protested the Department's Proposed Final Order and requested that the application be place on administrative hold while settlement discussions continued.

The applicant, Oregon Department of Fish and Wildlife, and the Department agree that the issue(s) in this case may be settled on the following terms and conditions, and hereby stipulate to the following:

1) Parties waive the right to file exceptions to this order and the right to judicial review under ORS 536.075(2) and 183.482.

2) Entry of this stipulated final order by the Administrative Law Judge.

3) Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon submittial and approval of plans and specifications for Windhurst and Bee Sting Reservoirs. Additional dam safety conditions may be added to the attached draft permit following approval of final plans and specifications. Permit issuance is also contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.

4) The permit shall contain the following new or modified conditions as well as the conditions contained on the attached draft permit.

A) Season of Use: November 1 through May 31

B) Volume: 614 acre-feet to be stored in 23 off-channel reservoirs

C) Instantaneous Diversion Rate: the maximum diversion rate from Bill Creek authorized under this permit, combined with the diversion authorized under any permit for application S-69654, shall not exceed 2.75 cfs and is further limited as described below.

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the live flow diversion authorized under any permit for application S-69654, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application S-69654, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application S-69654, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for S-69654 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

D) Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

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

E) Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

F) At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

G) As conditioned, the proposed use will not impair or be detrimental to the public interest.

Findings of Fact and Conclusions of Law

Pursuant to OAR 690-410-070 and OAR 690-400-010(11) water is available for the proposed use November 1 through May 31 of each year. Under the South Coast Basin Program OAR 690-517-001, the use is allowable as requested. The proposed use will not injure other water rights and complies with rules of the Water Resources Commission. Finally, as conditioned above and on the attached draft permit the proposed use will not impair or be detrimental to the public interest.

Therefore, the applicant, the Oregon Department of Fish and Wildlife, and the Department agree that the proposed use may be allowed as conditioned above and on the attached draft permit without detriment or impairment to the public interest.

The applicant, the Oregon Department of Fish and Wildlife, and the Department agree on all other aspects of the attached draft permit and therefore agree to the entry of this Stipulated Final Order. Therefore, the Department finds and the applicant and the Oregon Department of Fish and Wildlife agree that, if exercised in accordance with the attached draft permit, the proposed use will not impair or be detrimental to the public interest.

Ronny O. Haga — 11-6-97

On Behalf of Applicant — Date

Jill E. Zarnowitz — 10/31/97

On Behalf of the Oregon Department of Fish and Wildlife — Date

Jill E. Zarnowitz

Richard A. Bailey — 11/14-97

On Behalf of the Oregon Department of Water Resources — Date

NOV 19 1997

OREGON WATER RESOURCES DEPT.

Stipulated Final Order

Pursuant to the Agreement described above, Application R-69708 therefore is approved with the above modifications to the Proposed Final Order. Issuance of the permit, a draft of which is attached shall be contingent upon submittial and approval of plans and specifications for Windhurst and Bee Sting Reservoirs. Additional dam safety conditions may be added to the attached draft permit following approval of final plans and specifications. Permit issuance is also contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.

DATED November 3, 1997

Weisha Mize
Administrative Law Judge

STATE OF OREGON

COUNTY OF COOS

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION
PO BOX 503
BANDON, OREGON 97411

(541) 347-3062

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

APPLICATION FILE NUMBER: R-69708

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK

POINT OF DIVERSION LOCATION: NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH AND 2480 FEET EAST FROM W 1/4 CORNER SECTION 3

STORAGE FACILITIES: 23 RESERVOIRS, BEING WINDHURST; HAGA #1,2,3,4; BEE STING; SCHERER #1,2,3,4,5,6,7,8; MANICKE #1,2,3,4; RICHERT #1,2,3,4,& 5

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-69654 FOR CRANBERRY OPERATIONS.

VOLUME OF USE: 614.0 ACRE-FEET EACH YEAR, BEING 470.0 ACRE-FEET IN WINDHURST, 9.1 ACRE-FEET IN HAGA #1, 5.0 ACRE-FEET IN HAGA #2, 2.9 ACRE-FEET IN HAGA #3, 6.0 ACRE-FEET IN HAGA #4, 23.0 ACRE-FEET IN BEE STING, 1.4 ACRE-FEET IN SCHERER #1, 1.4 ACRE-FEET IN SCHERER #2, 5.6 ACRE-FEET IN SCHERER #3, 7.0 ACRE-FEET IN SCHERER #4, 1.5 ACRE-FEET IN SCHERER #5, 4.2 ACRE-FEET IN SCHERER #6, 7.7 ACRE-FEET IN SCHERER #7, 4.2 ACRE-FEET IN SCHERER #8, 9.1 ACRE-FEET IN MANICKE #1, 9.1 ACRE-FEET IN MANICKE #2, 9.1 ACRE-FEET IN MANICKE #3, 2.7 ACRE-FEET IN MANICKE #4, 5.6 ACRE-FEET IN RICHERT #1, 9.1 ACRE-FEET IN RICHERT #2, 9.1 ACRE-FEET IN RICHERT #3, 5.6 ACRE-FEET IN RICHERT #4, AND 5.6 ACRE-FEET IN RICHERT #5

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH MAY 31

DATE OF PRIORITY: SEPTEMBER 6, 1988, FOR 100 ACRE-FEET AND JUNE 1, 1994, FOR 514 ACRE-FEET

INSTANTANEOUS DIVERSION RATE: THE MAXIMUM DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED UNDER ANY PERMIT FOR APPLICATION S-69654, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW:

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the live flow diversion authorized under any permit for application S-69654, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application S-69654, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application S-69654, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for S-69654 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

The area submerged by the Windhurst Reservoir, when full, will be 23.0 acres and the maximum depth of water will be 24.0 feet. The maximum height of the dam shall not exceed 28.0 feet.

The area submerged by the Haga Reservoir #1, when full, will be 2.6 acres and the maximum depth of water will be 9.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #2, when full, will be 0.8 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #3, when full, will be 0.5 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #4, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Bee Sting Reservoir, when full, will be 2.0 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 25.0 feet.

The area submerged by the Scherer Reservoir #1, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #2, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #3, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #4, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #5, when full, will be 0.5 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #6, when full, will be 0.7 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #7, when full, will be 1.0 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #8, when full, will be 0.5 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Manicke Reservoir #1, when full, will be 1.1 acres and the maximum depth of water will be 11.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #4, when full, will be 0.3 acre and the maximum depth of water will be 10.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Richert Reservoir #1, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #3, when full, will be 0.7 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #4, when full, will be 0.7 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #5, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

THE AREAS TO BE SUBMERGED BY THE RESERVOIR ARE LOCATED AS FOLLOWS:

NE 1/4 NE 1/4	MANICKE #1
SECTION 32	
NW 1/4 NW 1/4	MANICKE #2
SW 1/4 NW 1/4	MANICKE #3 #2
SE 1/4 NW 1/4	MANICKE #4
SECTION 33	
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.	
NW 1/4 SW 1/4	HAGA #1
SECTION 3	
SW 1/4 NW 1/4	SCHERER #5
NE 1/4 SW 1/4	BEE STING
NW 1/4 SW 1/4	SCHERER #5, #7, AND #8
SW 1/4 SW 1/4	HAGA #4
SE 1/4 SW 1/4	HAGA #2 AND #3 BEE STING
NE 1/4 SE 1/4	WINDHURST HAGA 1
NW 1/4 SE 1/4	WINDHURST
SECTION 4	
NE 1/4 NE 1/4	SCHERER #3
SW 1/4 NE 1/4	SCHERER #1
SE 1/4 NE 1/4	SCHERER #2 AND #4 #3
NE 1/4 SE 1/4	SCHERER #6
SECTION 5	
NE 1/4 NE 1/4	RICHERT #2
NW 1/4 NE 1/4	RICHERT #1 AND #3
SW 1/4 NE 1/4	RICHERT #5 AND #4
SECTION 9	
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.	

Measurement, recording and reporting conditions:

A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may

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

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

Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

ADDITIONAL DAM SAFETY CONDITIONS MAY BE ADDED HERE FOR WINDHURST AND BEE STING RESERVOIRS AFTER APPROVAL OF FINAL PLANS AND SPECIFICATIONS

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.

STANDARD CONDITIONS

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2001.

Issued _____, 199_

DRAFT - THIS IS **NOT** A PERMIT

_____
Water Resources Department
Director

Oregon
John A. Kitzhaber, M.D., Governor

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

August 16, 1999

Ralph Dunham, P.E.
Stuntzner Engineering & Forestry, LLC
P.O. Box 118
Coos Bay, OR 97420

Re: Windhurst Dam
Application R-69708

Dear Mr. Dunham:

The plans and specifications for the proposed referenced dam located in **Section 4, T29S, R14W, Coos County** have been reviewed and approved for construction. However, please note that final approval is conditioned upon WRD Dam Safety receiving from the geotechnical engineer a program for monitoring seepage conditions and embankment performance long-term. It is expected that the embankment monitoring program will be submitted, and approved, prior to first filling of the impoundment and will include installation of piezometers to help evaluate ground water conditions, weirs for measuring seepage through the embankment, and deflection monuments to detect potential slope movement.

The owner/applicant will be notified by letter when and if a Reservoir Permit is issued for this project. In the meantime, one copy of the approved technical specifications and blueline drawings are being mailed to the applicant directly. All other documents associated with the design and construction of the project will remain here for benefit of public record.

According to our review of the design drawings, the proposed structure will have a maximum centerline height approximately 41 feet above natural ground surface (±Sta. 29+20) and will impound a total estimated reservoir storage of 450 acre-feet at elevation 326.5 feet. Please be advised that there is no penalty for reservoir storage being less than the amount estimated on either the application form or illustrated on the drawings. However, ending up with *more* water in the finished reservoir vs. the amount listed on the Permit will require a supplemental application for the difference and with it, the privilege of re-visiting the entire application process.

Because this project exceeds Oregon's statutory size limits for exempt dams and reservoirs, construction must be supervised by a licensed engineer. As the engineer of record, it is assumed that you will continue to provide the necessary supervision and inspection during construction of the project works. If this assumption is incorrect, please advise me in writing as soon as possible as to whom this responsibility will be assigned.

Enclosed is a list of provisions that will be included as conditions of permit to help assure that the project is properly constructed and the finished product is adequately maintained and operated. The items on this list are requirements that must be fulfilled during construction and prior to storage of water, and throughout the life of the structure. Often, other conditions unrelated to dam safety may be added during the permitting process before the water right is issued. The failure of the applicant and/or the permittee to abide by the conditions of the permit could result in the water right being canceled.

Any significant deviation from the approved design must be submitted to WRD Dam Safety for our review. If additional changes become necessary during construction, engineers from this office are available for consultation and are authorized to grant field approval provided the changes are consistent with existing engineering and construction practices and standards.

After the project has been constructed, please submit a **letter of completion** certifying that all work was performed in accordance with the approved plans and specifications. Any changes in the approved design that occurred during construction should be documented by a licensed engineer on a set of quality **reproducible asbuilt drawings**, including an area-capacity graph/table that accurately reflects asbuilt reservoir storage capacity. We must receive both the letter of completion and, if appropriate, a final set of asbuilts because, without proper certification, the project cannot receive a Certificate Of Water Right which is the final step in the water right process.

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

Sincerely,

John Falk, P.E.
Safety of Dams

c: Ron Haga - Windhurst Road Irrigation Subdistrict
David Driscoll - Geotechnical Resources, Inc.
John Drolet - Watermaster District #~~18~~ 19
WRD Water Rights Section
file

enclosure

MEMORANDUM

E Version located
M:\groups\ts\dam
file: R-69708.app

DATE: August 16, 1999
TO: Water Rights Section
FROM: John A. Falk, Dam Safety (x222)
SUBJECT: Conditions of Permit for an Earthen Dam

Please include the following items as conditions of permit for construction of the proposed WINDHURST DAM; RESERVOIR APPLICATION R-69708:

- The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

- No fill shall be placed until preparation of the foundation has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

- Any significant change in the approved design prior to or during construction shall be documented by the engineer of record in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

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

- The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

- Routine maintenance of the dam and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

- The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

Oregon
John A. Kitzhaber, M.D., Governor

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

March 16, 2000

Ron Haga
Windhurst Road Water Corporation
P.O. Box 503
Bandon, Oregon 97411

RE: Windhurst (R-69708 and S-69654)

Dear Mr. Haga:

Back in November of 1997, the Department issued final orders approving the above referenced applications. For each application the issuance of a permit was contingent upon additional material being submitted to the Department. To date the required material has not been received. Under ORS 537.130(3) "no person shall use, store or divert any waters until *after* the Department issues a permit to appropriate the waters.

According to the Stipulate Final Orders the following items are still needed:

R-69708

- According to the final order the applicant shall provide final plans and specifications for the Windhurst and Bee Sting Reservoirs. Plans have been approved for Windhurst but none have been submitted for Bee Sting. When a permit is issued additional dam safety conditions will be added. Should Bee Sting be removed from the proposed permit or is the applicant going to submit plans?

- Names and addresses of property owners affected by the proposed use and written authorization, easement or proof of ownership of non-owned lands inundated by the proposed reservoir or crossed by a proposed ditch, canal or other works.

S-69654

The issuance of a permit for S-69654 is contingent upon a permit being issued for R-69708. In addition permit issuance is contingent upon:

- Submittal of a revised map meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use.

- Names and addresses of property owners affected by the proposed use and written authorization, easement or proof of ownership of non-owned lands crossed by a proposed ditch, canal or other works.

Please make every effort to get these materials to the Department promptly. If you should have any questions please contact me at 1-800-624-3199 ext. 262.

Sincerely,

Adam Sussman
Protest Program Coordinator

cc: John Youngquist
827 SE Mosher Ave.
Roseburg, Oregon 97470

John Drolet, Watermaster District 19

Oregon
John A. Kitzhaber, M.D., Governor

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

September 22, 1998

John Youngquist
827 SE Mosher Ave.
Roseburg, OR 97470

Re: Proposed Windhurst Reservoir
Application R-69708

Dear Mr. Youngquist:

Thank you for the opportunity to visit with you at the project site on September 16, 1998, and to discuss expectations and scheduling that may affect the design and construction for the referenced project. We appreciate being included early in the design phase, and hope to provide our review and comment in a timely fashion so as not to cause unnecessary delay or postponement during the approval process.

As discussed, we understand that the proposed reservoir will be constructed out of channel, and will consist of a combination excavated sump with perimeter ring dike. The height of the embankment will be approximately 28 feet with anticipated storage of 470 acre-feet, to be filled during the winter season from water pumped out of the Bills Creek drainage. The proposed site is situated near the crest of a ridge separating Geiger Creek and Bills Creek; the maximum embankment section will occupy the Geiger Creek side of the hill.

As you may be aware, Dam Safety normally will require an emergency action plan, flood routing calculations, and a seismic analysis to be included with the design prior to our approval for most High hazard dams and reservoirs. Based on our site observations and a cursory evaluation of the downstream channel below the proposed dam (Geiger Creek), it appears that a hazard rating of *Significant* would be appropriate for a structure of this height and capacity and considering the potential for it causing damage to property in the event of a sudden failure.

Due to specific site conditions, the off-channel configuration, and its lower perceived hazard (Significant vs. High), we have determined that the final design can be approved without a site specific seismic analysis or preparation of an emergency action plan. However, please be advised that hazard ratings can and do change with time, according to the level of downstream development. Because of the large costs anticipated for the design and construction of this project, we encourage the engineer of record to consider implementing a conservative design, one that would require very little modification, or one that can be easily modified should a seismic analysis and subsequent retrofit ever become necessary at some later time in the life of the structure.

If you have any questions, please call and let me know. We look forward to reviewing the preliminary design as it progresses. Thank you for your cooperation.

Very truly yours,

J.A. Falk, P.E.
Safety of Dams

c: John Drolet - Watermaster Dist. #19
OWRD Water Right Section

Oregon
John A. Kitzhaber, MD, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

July 29, 2011

WINDHURST ROAD WATERING CORP.
PO BOX 503
BANDON, OR 97411

REFERENCE: Application R-69708 / Permit R-12928

Dear Permit Holder:

The Water Rights and Adjudications Division received your written progress report for Permit R-12928. Receipt of the progress report was published on the Department's weekly Public Notice, dated June 14, 2011. The Department did not receive any public comment on the progress report.

After reviewing your Progress Report, the Department determined that diligence toward completion of the project and compliance with the terms and conditions of the permit and extension has been demonstrated.

If you have any questions, please feel free to contact me by telephone at (503) 986-0827.

Sincerely,

A C Reece

Ann Reece
Extensions
Water Rights Services Division

Enclosure

cc: Application R-69708
Watermaster District 19 – Mitch Lewis

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

Extension of Time
Progress Reporting Form
For Checkpoints

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: Windhurst Road Watering Corportation

Application R-69708
Permit R-12928

Report Due no later than October 1, **2010**

Progress Report Form for 2010

As authorized in ORS 690-315-0050(6), this progress report is required in order to ensure diligence is exercised in the development and perfections of Permit R-12928

INSERT DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between October 1, 2005 and October 1, 2014	FINANCIAL INVESTMENT
2009-2010	Pipeline route to Bee Sting Reservoir constructed – brush cleared for road around	**$8,500.00**
	Reservoir. Pipeline to be installed in 2011	
	Material removed at Haga #4 reservoir site	**$1,500.00**
2010	Stream flow measurement	**$350.00**

2. Compliance with terms and conditions of the permit and/or previous extension.

Stream measurement accomplished in 2010

RECEIVED
JAN 04 2011
WATER RESOURCES DEPT
SALEM, OREGON

3. Total number of acres irrigated to date = 107 pri, 18.1 sup *(if applicable)*

4. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit, if any, made to date.

Maximum rate used to date = _____cfs (cubic feet per second), or

Maximum rate used to date = _____gpm (gallons per minute), or

Acre Feet stored to date = 523 AF

Report the rate in the same units of measurement as specified in the permit, being cfs (cubic feet per second), gpm (gallons per minute) or AF (acre-feet). ***Do not provide daily, monthly or annual water volume totals.***

Signature Ronnie O. Haga Date 12/30/10

For OWRD use only

Diligence Shown ☑ Yes ☐ No

Date Public Noticed: 6-14-2011

Reviewed by: ALR

Date: 7-26-2011

Jordan Engineering

Structural-Civil-Geotech
460 Jordan Lane
Roseburg, OR 97471
541-673-1931

Oregon Water Resources Department
% Mr. Jerry Gainey
725 Summer Street NE, Suite A
Salem Oregon 97301

Progress Report, Extension of Time:

1. Application R-69708
   Permit R-12928
2. Application S-69654
   Permit S-53703

January 3, 2011

Mr. Gainey:
Inclosed are two Progress Reports for the two permit extension as noted above. Please process letting the applicant and me know if there are any omissions and/or short comings associated with the so noted permits' extension of time.

Respectfully,

Clay Jordan, P.E., S.E., Geotech, CWRE

file: owrd progress report-2010.wpd
cc: Windhurst Road Watering Corporation

RECEIVED
JAN 04 2011
WATER RESOURCES DEPT
SALEM, OREGON

Route Slip…..Extension of Time Progress Report

1. **Extension Specialist: Progress Report Review**

   Date Report Received: 1/4/11

   Report Complete: YES

2. **Jonnine: Publish on the Department's Public Notice**

   320 OAR Division under which Progress Report was required

   ☑ Publish on Public Notice Date: 6/14/11 KS

   ☑ Update workflow in WRIS (Fill in Extension Checkpoint 'Completed Date' in appropriate work flow record) 20 | 0

   ☑ Return to Extension Specialist

3. **Extension Specialist: Prepare Progress Report Confirmation Letter**
   See progress report procedures.doc (date / mail out after 30 day comment period)

   Date Confirmation Letter Needed:

   ☑ Update Progress Report Worksheet.xls

   ☑ Send to permit holder + anyone who made comments after 30 day public notice
   CC: Watermaster _____

   File _____

4. **Return file to cabinet**

PUBLIC NOTICE INFORMATION

Permit Holder's Name: WINDHURST ROAD WATERING CORP.

Application: R-69708

Permit: R-12928

County: Coos

Source: Bill Creek, a Tributary of Bear Creek

Use: Storage in 23 Reservoirs, to be Appropriated Under Permit S-53703 for Cranberry Operations

Oregon Water Resources Department
Water Rights Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time)
for Permit R-12928, Water Right Application R-69708) PROPOSED FINAL ORDER
in the name of Windhurst Road Watering Corportation.)

Permit Information

Application File R-69708 Permit R-12928
Basin: 17 – South Coast / Watermaster District 19
Date of Priority: September 6, 1988

Authorized Use of Water

Source of Water:	Bill Creek, a tributary of Bear Creek
Purpose of Use:	Stored water to be appropriated under Permit S-53703 for Cranberry Operations
Maximum Rate:	614 Acre-Feet each year (AF)

This Extension of Time request is being processed in accordance with Oregon Administrative Rule Chapter 690, Division 315

Please read this Proposed Final Order in its entirety as it contains additional conditions not included in the original permit.

This Proposed Final Order applies only to Permit R-12928, water right Application R-69708.
A copy of Permit R-12928 is enclosed as Attachment 1.

Summary of Proposed Final Order for Extension of Time

The Department proposes to:

- Grant an extension of time to apply water to full beneficial use from October 1, 2005 to October 1, 2014.
- Make the extension subject to certain conditions set forth below.

ACRONYM QUICK REFERENCE

Department – Oregon Department of Water Resources
PFO – Proposed Final Order

Units of Measure
cfs – cubic feet per second
gpm – gallons per minute
AF – acre-feet

AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(3) provide in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

OAR 690-315-0050(6) allows the Department, for extensions exceeding five years, to establish checkpoints to determine if diligence is being exercised in the development and perfection of the water use permit. Intervals between checkpoints will not exceed five year periods.

FINDINGS OF FACT

Background

1. Permit R-12928 was granted by the Department on October 10, 2000. The permit authorizes storage of up 614 AF of water each year, in 23 Windhurst Road Waterering Corporation Reservoirs, diverted from Bill Creek, a tributary of Bear Creek, at a rate not to exceed 2.75 cfs, for cranberry operations. The permit specified complete application of water was to be made on or before October 1, 2005.

2. The permit holder submitted an "Application for Extension of Time" to the Department on March 6, 2009 requesting the time to apply water to full beneficial use under the terms of Permit R-12928 be extended from October 1, 2005 to October 1, 2014. This is the first permit extension requested for Permit R-12928.

3. Notification of the Application for Extension of Time for Permit R-12928 was published in the Department's Public Notice dated March 17, 2009. No public comments were received regarding the extension application.

Review Criteria *[OAR 690-315-0040]*

The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0040. This determination shall consider the applicable requirements of ORS 537.230[1], 537.248[2] and/or 539.010(5)[3].

Complete Extension of Time Application *[OAR 690-315-0040(1)(a)]*

4. On March 6, 2009 the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction *[OAR 690-315-0040(1)(b) and 690-315-0040(5)]*

5. Actual construction of the water system began prior to the October 1, 2001 deadline specified in the permit.

Duration of Extension *[OAR 690-315-0040(1)(c)]*

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

6. As of March 6, 2009 the remaining work to be completed consists of completing two stream flow measurements to aide in the development of a flow rating curve, installing Staff gages in all Scherer and Haga ponds, completing Scherer Reservoir #7, enlarging

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[1]ORS 537.230 applies to surface water permits only.

[2]ORS 537.248 applies to reservoir permits only.

[3]ORS 539.010(5) applies to surface water and ground water permits.

Scherer Reservoirs # 1 and #2, completing Haga Reservoir #1 and Bee Sting Reservoir, constructing Richert Reservoirs #1 and #2, and applying water to full beneficial use.

7. Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 1, 2014, to accomplish the application of water to beneficial use under the terms and conditions of Permit R-12928 is both reasonable and necessary.

Good Cause *[OAR 690-315-0040(1)(d)]*

The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator *[OAR 690-315-0040(2)(a)]*
The Department's determination of reasonable diligence shall consider the requirements set forth under OAR 690-315-0040(3)(a-d). In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:

Amount of Construction *[OAR 690-315-0040(3)(a)]*

8. Work was accomplished within the time allowed in the permit or previous extension as follows:

   a. Construction of the water system began prior to the October 1, 2001 deadline specified in the permit.

   b. Work was completed (specified in the Application for an Extension of Time) during the original development time frame under Permit R-12928.

Beneficial Use of Water *[OAR 690-315-0040(3)(b)]*

9. The following beneficial use was made of the water during the permit or previous extension time limits:

   a. Since the issuance of Permit R-12928 on October 10, 2000 the permit holder has stored 523 AF of water for primary irrigation of 106.2 acres and supplemental irrigation of 18.1 acres

Compliance with Conditions *[OAR 690-315-0040(3)(c)]*

10. The water right permit holder's conformance with the permit or previous extension conditions.

   a. The Department has considered the permit holder's compliance with conditions, and has identified the following concern, the record does not show that a flow rating curve has been developed in the 10 cfs to 25 cfs range downstream of the confluence of Bill Creek and Bear Creek..

b. Failure to comply with permit conditions constitutes illegal storage of water. In order to legally perfect the storage of water under this permit, the permit holder must demonstrate that all conditions of the permit have been satisfied.

Financial Investments *[OAR 690-315-0040(3)(d)]*

11. Financial investments made toward developing the beneficial water use.

a. As of March 6, 2009 the permit holder has invested approximately $1,745,067 which is approximately 95 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional $94,000 investment is needed for the completion of this project.

Cost to Appropriate and Apply Water to a Beneficial Purpose *[OAR 690-315-0040(2)(b)]*

12. As of March 6, 2009 the permit holder has invested approximately $1,745,067 which is approximately 95 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional $94,000 investment is needed for the completion of this project.

Good Faith of the Appropriator *[OAR 690-315-0040(2)(c)]*

13. The Department has found good faith of the appropriator under Permit R-12928.

The Market and Present Demands for Water *[OAR 690-315-0040(2)(d-e)]*

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

14. The amount of water available to satisfy other affected water rights and scenic waterway flows; special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d); or the habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife *[OAR 690-315-0040(4)(a-c)]*.

a. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit R-12928; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined at such time that such application for a new water right is submitted. The point of diversion is located on Bill Creek, a tributary of Bear Creek. Bill Creek is not located within or above any state or federal scenic waterway, is located within an area ranked "high" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located

within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife. Bill Creek is not listed by the Department of Environmental Quality as a water quality limited stream.

15. Economic investment in the project to date *[OAR 690-315-0040(4)(d)]*.

    a. As of March 6, 2009 the permit holder has invested approximately $1,745,067

16. Other economic interests dependent on completion of the project *[OAR 690-315-0040(4)(e)]*.

    a. None have been identified.

17. Other factors relevant to the determination of the market and present demand for water and power *[OAR 690-315-0040(4)(f)]*.

    a. None have been identified

18. OAR 690-315-0050(6) requires the Department to place a checkpoint condition on this extension of time in order to ensure diligence is exercised in the development and perfection of the water use permit. A "Checkpoint Condition" is specified under Item 1 of the "Conditions" section of this PFO to meet this condition.

Fair Return Upon Investment *[OAR 690-315-0040(2)(f)]*

19. Use and income from the permitted water development results in reasonable returns upon the investment made to date.

Other Governmental Requirements *[OAR 690-315-0040(2)(g)]*

20. Delay in the development of this project was not caused by any other governmental requirements.

Unforeseen Events *[OAR 690-315-0040(2)(h)]*

21. Unforeseen events extended the length of time needed to fully develop and perfect Permit R-12928, in that the permit holders previous water right consultant died unexpectedly forcing the permit holder to seek a new consultant and bring him up to date on the project.

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230(3).

2. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).

3. The applicant complied with begin actual construction timeline requirements pursuant to

ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

4. Full application of water to beneficial use can be accomplished by October 1, 2014[4], as required by OAR 690-315-0040(1)(c).

5. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

6. As required by OAR 690-315-0050(6) and as described in Finding 18 above, the Department has established, as specified in the "Conditions" section of this PFO (Item 1), progress checkpoints in order to ensure future diligence is exercised in the development and perfection of Permit R-12928.

Proposed Order

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

- Extend the time to apply water to beneficial use under Permit R-12928 from October 1, 2005 to October 1, 2014.

Subject to the following conditions:

CONDITIONS

1. **Checkpoint Condition**
The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2010.** ***A form will be enclosed with your Final Order.***

---

[4]Pursuant to ORS 537.230(3), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and the claim of beneficial use.

(a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;

(b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

DATED: September 1, 2009

If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.

Dwight French
Administrator
Water Rights & Adjudications Division

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **October 16, 2009** being 45 days from the date of publication of the proposed final order in the Department's weekly notice.

2. A written protest shall include:
   a. The name, address and telephone number of the petitioner;
   b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
   c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
   d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
   e. Any citation of legal authority supporting the petitioner, if known;

f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and

g. The applicant or non-applicant protest fee required under ORS 536.050.

3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:

a. Issue a final order on the extension request; or

b. Schedule a contested case hearing if a protest has been submitted, and:

1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or

2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

- If you have any questions about statements contained in this document, please contact Scott Kudlemyer at 503-986-0813.
- If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0820.
- If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
- Address any correspondence to : Water Rights and Adjudications Division
  725 Summer St NE, Suite A
  Fax: 503-986-0901 Salem, OR 97301-1266

Extension PFO Checklist for

Other than Muni or Quasi-Municipal

Water Use Permits

(OAR 690-315-0010 through OAR 690-315-0060)

Application: R- 69708 Permit: R- 12928 Permit Amendment? No ☒ Yes ☐ T- _____ ☐ pending ☐ approved

Permit Holder's Name: Windhurst Road Watering Corporation

Permit Holder's Mailing Address: PO Box 503 Bandon, OR 97411 email _____

Phone Number: 541-347-3062

POD Location: Township 29 S Range 14 W Section 3 ¼¼ NESW

Drainage Basin: 17 County: Coos Watermaster District: 19 Watermaster: Mitch Lewis

Date Permit was issued: 10/10/2000 **Priority Date:** 9/6/1988 **Date of PN:** 3/17/2009

Source: Bill Creek, A tributary of Bear Creek

Use: Stored water to be appropriated under permit S-53703 for cranberry operations

"Q": 614 AF each year sh / 2.75 cfs

Orig "A" Date: 10/1/2001 **Orig "B" Date:** 10/1/_____ **Orig "C" Date:** 10/1/2005

Extension request rec'd: 3/6/2009 **Last Authorized "B" Date:** 10/1/_____ **Last Authorized "C" Date:** 10/1/_____

Request Number (1, 2, 3…): 1 **Proposed "B" Date:** 10/1/_____ **Proposed C Date:** 10/1/2014

Conditions of Permit:

Condition Met?	Condition Not Met?	Permit Condition
☒	☐	1. Install staff gauge downstream from confluence of Bear creek and Bill creek
☐	☒	2. Minimum two streamflow measurements per year
☒	☐	3. Install standardized weir and staff gauge at point of diversion
☒	☐	4. Before water use, full range / stage staff gauge must be installed
☒	☐	5. Install totalizing flow meter before water use, maintain monthly water use records and report water use annually (see reverse for other conditions)

Factors to consider in determining "Reasonable Diligence" [OAR 690-315-0040(3)]:

Yes No

☒ ☐ Work was accomplished within the time allowed in the permit or previous extension

☒ ☐ Water right permit holder conformed with the permit or previous extension conditions

☐ ☐ Financial investments were made toward developing the beneficial water use.

- Amount Invested to date: $ 1,745,067 Estimated Remaining Cost: $: 94,000 (see #11 on Application) sh

☒ ☐ Beneficial use made of the water during the permit or previous extension time limits

- Permit holder has beneficially used 523 ☐cfs ☐gpm ☒af of the total permitted quantity of water on 124.3 acres

Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes ☒ No ☐

Application: R- 69708 Permit: R- 12928 Township 29 S Range 14W Section 3

Determination of the market and the present demand for water or power to be supplied:

Identify the closest surface water or localized water basin. Bill Creek

Ground Water Permits: Is the POA located…

Surface Water Permits: Is the POD located…

Yes No

☐ ☒ above a state scenic waterway? Name Source: OWRD "Areas Above State Scenic Waterways" Map

☐ ☒ within a stream segment designated as a federal wild and scenic river? Source: www.rivers.gov/wildriverslist.html

☒ ☐ within a sensitive, threatened or endangered species area Source: "/gisdata/dev/projects/salmon/div33map.aml"

☐ ☒ within a critical or limited Ground Water Area? Name of area

☐ ☒ within a Withdrawn Area? Name of area

☐ ☒ in a waterbody listed on the DEQ Section 303(d) List of Water Quality Limited Areas? Date added to list

☒ ☐ within an area ranking ☐low / ☐moderate / ☐high / ☒highest for stream flow restoration needs Source: OWRD "Streamflow Restoration Needs" Maps (by region)

Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. ☒ Approval of Extension Request

No ... "Good Cause" *cannot* be found. ☐ Denial of Extension Request

Conditions to be included in Extension PFO (if applicable)? Yes ☐ No ☐

(NOTE: Check the file record for documentation to add a condition(s) at the extension stage.)

☒ 5-year Progress Report Checkpoints (Years: **2014**)

☐ Other: _____

Footnote regarding Claim of Beneficial Use. Choose the appropriate language below and insert as a footnote in the PFO:

☐ **COBU Requirement - Surface/Ground Water - on or prior to July 9, 1987**

"For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625."

☒ **COBU Requirement - Surface Water - post July 9, 1987**

"Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

☐ **COBU Requirement - Ground Water - post July 9, 1987**

"Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

NOTES:

6. Fish screens to be installed at Bill creek diversion point. (condition met)
7. No water storage until OWRD receives written certification that construction meets approved plans and specifications. (condition met)
8. Outlet gate shall be cycled at least once a year and fully operational at all times. (condition met)

Extension "PFO" Dates

Mailing / Issuance Date: _____ **Protest Deadline Date:** _____

Application: R- 69708 Permit: R- 12928 Township 29 S Range 14W Section 3

Determination of the market and the present demand for water or power to be supplied:

Identify the closest surface water or localized water basin. Bill Creek

Ground Water Permits: Is the POA located…

Surface Water Permits: Is the POD located…

Yes No

☐ ☒ above a state scenic waterway? Name Source: OWRD "Areas Above State Scenic Waterways" Map

☐ ☒ within a stream segment designated as a federal wild and scenic river? Source: www.rivers.gov/wildriverslist.html

☒ ☐ within a sensitive, threatened or endangered species area Source: "/gisdata/dev/projects/salmon/div33map.aml"

☐ ☒ within a critical or limited Ground Water Area? Name of area

☐ ☒ within a Withdrawn Area? Name of area

☐ ☒ in a waterbody listed on the DEQ Section 303(d) List of Water Quality Limited Areas? Date added to list

☒ ☐ within an area ranking ☐low / ☐moderate / ☐high / ☒highest for stream flow restoration needs Source: OWRD "Streamflow Restoration Needs" Maps (by region)

Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. ☒ Approval of Extension Request

No ... "Good Cause" *cannot* be found. ☐ Denial of Extension Request

Conditions to be included in Extension PFO (if applicable)? Yes ☐ No ☐

(NOTE: Check the file record for documentation to add a condition(s) at the extension stage.)

☒ 5-year Progress Report Checkpoints (Years: 2014)

☐ Other: _____

Footnote regarding Claim of Beneficial Use. Choose the appropriate language below and insert as a footnote in the PFO:

☐ **COBU Requirement - Surface/Ground Water - on or prior to July 9, 1987**

"For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625."

☒ **COBU Requirement - Surface Water - post July 9, 1987**

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☐ **COBU Requirement - Ground Water - post July 9, 1987**

"Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

NOTES:

5. Fish screens to be installed at Bill creek diversion point. (condition met)
7. No water storage until OWRD receives written certification that construction meets approved plans and specifications. (condition met)
8. Outlet gate shall be cycled at least once a year and fully operational at all times. (condition met)

Extension "PFO" Dates

Mailing / Issuance Date: _____ **Protest Deadline Date:** _____

STATE OF OREGON

WATER RESOURCES DEPARTMENT

RECEIPT # 95825

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIVED FROM: Bandon Cranberry Water Control District

BY: _____

APPLICATION	
PERMIT	
TRANSFER	

CASH: ☐ CHECK:# ☒ 1030 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D $ 700.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	$
_____	OTHER: (IDENTIFY) _____	$

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

46111

MISCELLANEOUS

0407	COPY & TAPE FEES	$
0410	RESEARCH FEES	$
0408	MISC REVENUE: (IDENTIFY) _____	$
TC162	DEPOSIT LIAB. (IDENTIFY) _____	$
0240	EXTENSION OF TIME R 69708 #350.00 R 69654 #350.00	$ 700.00

WATER RIGHTS:

		EXAM FEE		RECORD FEE
0201	SURFACE WATER	$	0202	$
0203	GROUND WATER	$	0204	$
0205	TRANSFER	$		

WELL CONSTRUCTION

		EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	$	0219	$
	LANDOWNER'S PERMIT		0220	$

_____ OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	$	CARD #
0210	MONITORING WELLS	$	CARD #

_____ OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)		$
0231	HYDRO LICENSE FEE (FW/WRD)		$
_____	HYDRO APPLICATION		$

_____ TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ $

RECEIPT: 95825 DATED: 3/6/09 BY: L.Bell

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

BANDON CRANBERRY WATER CONTROL DISTRICT 1030

Oregon Dept Water Resources

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
2/19/2009	Bill	R-12928 S-53703 permits	700.00	700.00		700.00
				Check Amount		700.00

2/19/2009

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SALEM, OREGON

Main Sub Account 700.00

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

Application for Extension of Time for a Water Right Permit

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

A separate extension application must be submitted for <u>each</u> permit as per OAR 690-315-0020(2).

This application and a summary of review criteria and procedures that are generally applicable to this application are available at http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

I, Windhurst Road Watering Corporation
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

P.O. Box 503 Bandon OR 97411
ADDRESS CITY STATE ZIP

(541) 347-3062
PHONE E-MAIL ADDRESS

the permit holder of: Application Number R - 69708

Permit Number R - 12928

[OAR 690-315-0020(3)(b)]

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do hereby request that the time in which to:

☐ complete construction (of diversion/appropriation works and/or purchase and installation of the equipment necessary to the use of water), which time now expires on October 1, _____, be extended to October 1, _____,

and/or the time in which to:

X apply water to full beneficial use under the terms and conditions of the permit, which time now expires on October 1, 2005, be extended to October 1, 2014.

Before submitting your Application for Extension of Time, make sure the following items are included:

- This completed Application for Extension of Time.
- Statutory fee of $350.
- Signature page (last page of this Application for Extension of Time).
- All supporting documentation and/or evidence referenced in the Application for Extension of Time.

MAIL COMPLETED APPLICATION

along with the

$350 STATUTORY FEE TO:

Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

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GENERAL TIPS:

- Request the reasonable amount of time necessary to fully complete the water construction project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.
- A separate Application for Extension of Time must be submitted for each permit. OAR 690-315-0020(2).
- An instruction sheet (Instructions for Filling Out Extension of Time Application for Permits) provides details that will help you answer each question on the application. Permit extensions

are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at: http://www.wrd.state.or.us/OWRD/LAW/index.shtml.

- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 315-0020(3)(n).

- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights and Adjudications Division.

- Once an Application for Extension of Time is received by OWRD, it will be reviewed for completeness. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- The water right permit. If needed, a copy of the water right permit can be downloaded from the Department's Website at *http://www.wrd.state.or.us* (find the link to the Water Rights Information System (WRIS). Or, a copy of the permit (or other documents) may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).

- Documentation which demonstrates compliance with permit conditions (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification;, a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Answer the Following Questions to Complete this Application for Extension of Time

[OAR 690-315-0020(3)(d)]

1. **Did the actual construction of the water system/well drilling begin within the time specified in the permit? [yes/no]** YES



TIP: Not all permits specify a date by which construction was to begin.

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Date construction began is: 1960

Details of construction: Manicke Reservoir #4 constructed

[OAR 690-315-0020(3)(e)(A)]

2. **Permits typically contain standard or special conditions that must be satisfied to lawfully develop and use permitted water. In the development of this water right, have you satisfied the conditions contained in your permit? [yes/no]** NO

A) **Describe how you have complied with each condition contained in the original permit [and, if applicable, each condition contained in any order approving a permit amendment and/or a final order approving a prior extension of time]. Include the date when the condition was satisfied.**



TIP: The instruction sheet for the Application for Extension of Time provides an explanation of the typical conditions that must be addressed in this question.

CHART-A

Condition No.**	Date Satisfied	Describe How Permit Condition Has Been Satisfied
1 ✓	2000	Staff gage installed on Bear Cr. on bridge downstream from confluence of Bills Cr.
3	1998	Weir 7 staff gage installed at POD from Bills Creek
4 ✓	2001	Totalizing flow meter installed at POD from Bills Creek, Reports submitted beginning Feb. 2002
5 ✓	2002	Staff gages installed in most ponds, including Windhurst Reservoir
6 ✓	2002	Approved fish screen installed at POD from Bills Creek.
7 ✓	2002	Engineering certification
8 ✓	2001	Outlet cycled during each water use season as needed to deliver water

** ***Condition No:*** *Hand-number each condition on a copy of your permit (and, if applicable, permit amendment and prior extension).*

B) **If you have NOT complied with all applicable conditions, explain the reasons why and indicate with a date certain (in the near future) when compliance will occur.**

CHART-B

Condition No.**	Date Will Comply	Explain Why Each Permit Condition Has NOT Been Satisfied
2	2009	Measurements – we understood our prior consultant, M. John Youngquist, had made some measurements prior to his death, however, we can find no records of measurements. Current consultant, Jordan Engineering, made inspection of gage on 8/20/08, but water was too low to measure. It is hoped that measurements can be accomplished in 2009.
5	2009	Install staff gages in Scherer and Haga ponds

** ***Condition No:*** *Hand-number each condition on a copy of your permit (and, if applicable, permit amendment and prior extension.*

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[OAR 690-315-0020(3)(e)]

3. **Provide evidence of physical progress made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-C); and if applicable, within the time period of the most recent extension granted (CHART-D).**

   A) **CHART-C (below) must be completed for all Application for Extension of Time requests.** ***Use chronological order.***

CHART-C

INSERT DATES	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED *List any work done before the permit was issued – eg. well drilled.*	COST*
1960	Construct Manicke Res. #4	5,000
1968	Construct Haga Res. #4	2,500
1969	Construct Richert Res. #4	8,000
1971	Construct Scherer Res. #5 & #1	9,000
1972	Construct Richert Res. #2	8,000
1975	Construct Scherer Res. #8, enlarge existing reservoir	7,000
1980	Construct Manicke Res. #1 & #2	15,000
1983	Construct Scherer Res. #6	8,500
1988	Construct Manicke Res. #3	10,000
1989	Construct Haga Res. #2	4,500
1990	Construct Scherer Res. 4 & re-sand bogs	9,000
1993	Construct Haga Res. #3	6,000
1993	Construct Richert Res. #3	15,000
1996	Partial construction of Bee Sting Res. (Haga)	1,500
2000	Construct Scherer Res. #3	5,500
1998-2000	Construct Windhurst Res., install piping, weir, staff gages, meter	1,600,000

INSERT DATES	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER *List work/actions done during the permitted time period.*	COST*
10/10/2000	**The permit was signed** - find date above signature on last page of permit.	
10/10/2001	**The permit specified "Actual Construction Work" shall begin ("A-Date")** - not all permits contain this date.	
2001	Install pump, electrical & valves for Windhurst Res.	12,050
2001	Partial excavation of Haga Res. #1	4,000

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2002	On site geologist during filling of Windhurst Reservoir	7,900
2002	Fish screen installed on Bills Cr.	2,617
2004	Partial excavation of Scherer Res. #2 for sanding bogs.	4,000
10/1/2005	**The permit specified complete application of water to the use shall be made ("C-Date")** - all permits contain this date.	

INSERT DATES	WORK ACCOMPLISHED AFTER "C-DATE" *COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.*	COST*
	Total Cost to Date	**$1,745,067.00**

*** If exact cost is not known, you must provide your best estimate.**

B) If this is not your 1st Application for Extension of Time request, fill out CHART-D below (in addition to CHART-C above). ***Use chronological order.***

CHART-D

INSERT DATES	WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD *List all work done during the last authorized extension period.*	COST*
10/1/____	**"Extended From" date for complete application of water used in the 1st (or the most recent) Application for Extension of Time.**	
NA	NA	
10/1/_____	**"Extended To" date for complete application of water resulting from the 1st (or the most recent) Application for Extension of Time.**	

INSERT DATES	WORK ACCOMPLISHED AFTER THE LAST EXTENSION PERIOD EXPIRED *List all work done after the last authorized date for complete application of*	COST*

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	water up to the date of this Application for Extension of Time.	
	Total Cost to Date	**$1,745,067.00**

*** If exact cost is not known, you must provide your best estimate.**

[OAR 690-315-0020(3)(f)]

4. **Cost of project to date:** $1,745,067.00
(The total cost from CHART-C and CHART-D)

[OAR 690-315-0020(3)(e)(B)]

5. **Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit and/or prior extensions of time, if any, made to date.**

TIP: Report the rate in the same units of measurement as specified in the permit, being cfs (cubic feet per second), gpm (gallons per minute) or AF (acre-feet – usually only specified on a reservoir water right). Do not provide daily, monthly or annual water use totals.

Maximum rate = _____cfs (cubic feet per second) *or,*

Maximum rate = _____gpm (gallons per minute) *or,*

Acre Feet Stored = 523 AF

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[OAR 690-315-0020(3)(e)(C)]

6. **Provide the total number of acres irrigated to date under this permit.**

Total acres irrigated to date: 106.2 primary, 18.1 supplemental

[OAR 690-315-0020(3)(j)]

7. **Provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.**

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2009-2014	Manicke – Extensions to all ponds (1, 2, 3 &4)	20,000
2009-2014	Scherer – install staff gages in all ponds (2009), complete Res. #7 and enlarge Res. #1 & 2	22,000
2009-2014	Haga – Install staff gages (2009), complete Res. #1 & Bee Sting Res.	20,000
2009-2014	Richert – Construct Res. #1 & 2, pumps , plumbing	32,000
Year:	Intend to apply water to full beneficial use under the terms and conditions of this permit.	
	Total Cost	$94,000

[OAR 690-315-0020(3)(g)]

8. **Estimated remaining cost to complete the project:** $94,000
(The total cost from CHART-E)

[OAR 690-315-0020(3)(h)]

9. **List the reasons why the project was not constructed, and/or water was not beneficially used within permit time limits. Provide supporting information for the reason(s) that best fits your circumstances.**

A) **The project is of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit.**

This is a very large and expensive project that was planned to be phased in over a Longer period of time than allowed by the permit.

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B) **The financial resources needed to develop the project precluded completion of the project within authorized time frames.**

Financial resources were limited due to unstable price cranberries. Still recovering From market crash.

C) **Good faith attempts to comply with permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delayed completion of the project.**

D) **Acts of God or other unforeseen events delayed full development of the water system and use of water within the authorized time frames.**

Previous water right consultant, M. John Youngquist died unexpectedly. Securing New consultant, Jordan Engineering, and getting them familiar with the project Has taken a considerable amount of time.

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SALEM, OREGON

[OAR 690-315-0020(3)(k)]

10. **Justify the time requested to complete the project and/or apply the water to full beneficial use.** Your justification should combine information from your answers from Questions 2, 3-A, 3-B, 7 and 9 of this Application for Extension of Time, and should also include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

We need sufficient time to work with our consultant to insure we comply with all permit Conditions and time to enlarge existing ponds and construct new ones and store the water And put it to full beneficial use.

11. **Provide any other information you wish OWRD to consider while evaluating your Extension of Time Application.**

We are unable to separate costs from this permit and permit S-53703. Please consider Both permits together.

I am the permit holder, or have authorization from the permit holder, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

Ronny O. Haga
Signature

2-23-09
Date

RECEIVED
MAR 06 2009
WATER RESOURCES DEPT
SALEM, OREGON

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-69708

Proposed Final Order

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

Additional Information: The addresses of all property owners in this application. We have not received this as of today, please forward this information. Also, the location of your points of diversion, for each reservoir, by reference to a recognized public land survey corner. The locations may be shown by distance and bearing or by coordinates (distance in feet north or south and distance in feet east or west) from a recognized public land survey corner.

Application History

On September 6, 1988, WINDHURST ROAD WATER CORPORATION submitted an application to the Department for the following water use permit:

- Amount of Water: 614.0 acre-feet in 23 reservoirs
- Use of Water: Storage to be appropriated under application S-69654 for Cranberry Operations
- Source of Water: Bill Creek, a tributary of Bear Creek
- Area of Proposed Use: Coos County within

NE 1/4 NE 1/4
SECTION 32

NW 1/4 NW 1/4
SW 1/4 NW 1/4
SE 1/4 NW 1/4
SECTION 33
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

NW 1/4 SW 1/4
SECTION 3

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

NE 1/4 NE 1/4
SW 1/4 NE 1/4
SE 1/4 NE 1/4
NE 1/4 SE 1/4
SECTION 5

NE 1/4
SECTION 9
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

- Water Delivery System: Water is pumped from Bills Creek to all reservoirs.

On NOVEMBER 29, 1995, the Department mailed the applicant notice of its Initial Review, determining that the diversion of water is available from November 1 through July 31 for storage. The applicant did not notify the Department to stop processing the application within 14 days of that date.

On DECEMBER 19, 1995, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

Within 30 days of the Department's public notice, written comments were received from Oregon Department of Fish and Wildlife.

In reviewing applications, the Department may consider any relevant sources of information, including the following:
- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

Findings of Fact

The South Coast Basin Program allows the following use: Storage for Cranberry Operations.

Filest R-69708 and S-69654 have been held in contested case stage and now the applications have been amended and continuation of the permit process is being attempted.

Senior water rights exist on Bills Creek or on downstream waters.

Bills Creek is not within or above a State Scenic Waterway.

Water is available for further appropriation (at 50 percent exceedance

probability) for the period November 1 through July 31.

The Department finds that no more than 614 acre-feet would be necessary for the proposed use. The amount of water requested, 614 acre-feet, is allowable.

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

An interagency team reviewed this proposed use for potential adverse impacts on declining fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

> The period of use from natural flow has been limited to December 1 through April 30.
>
> Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I. Additionally, before water use may begin under this permit, if the reservoir is located in channel then weirs must be installed upstream and downstream of the reservoir, and, a gated valve outlet must be installed. A written waiver may be obtained from the local Watermaster if in his judgement the installation of the weir(s) will provide no public benefit.

Conclusions of Law

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

The proposed use requested in this application is allowed in the a 50 Basin Plan.

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

Water is available for the proposed use.

The proposed use will not injure other water rights.

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

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

For these reasons, the required presumption has been established.

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

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

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

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

Recommendation

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

DATED August 6, 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.
- If you are the applicant, a statement of whether or not you are requesting that a contested case hearing be held. If you do not request a hearing, the Department will presume that you do not wish for a hearing to be held.

Your protest must be received in the Water Resources Department no later than **September 20, 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.

GH

DRAFT This is not a permit!!! DRAFT

STATE OF OREGON

COUNTY OF Coos

DRAFT PERMIT TO STORE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION
PO BOX 503 (541) 347-3062
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: R-69708

SOURCE OF WATER: BILLS CREEK, A TRIBUTARY OF BEAR CREEK

STORAGE FACILITIES: 23 RESERVOIRS, BEING WINDHURST, HAGA #1, HAGA #2, HAGA #3, HAGA #4, BEE STING, SCHERER #1, SCHERER #2, SCHERER #3, SCHERER #4, SCHERER #5, SCHERER #6, SCHRERER #7, SCHERER #8, MANICKE #1, MANICKE #2, MANICKE #3, MANICKE #4, RICHERT #1, RICHERT #2, RICHERT #3, RICHERT #4, AND RICHERT #5

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-69654 FOR CRANBERRY OPERATIONS.

VOLUME OF USE: 614.0 ACRE-FEET EACH YEAR, BEING 470.0 ACRE-FEET IN WINDHURST, 9.1 ACRE-FEET IN HAGA #1, 5.0 ACRE-FEET IN HAGA #2, 2.9 ACRE-FEET IN HAGA #3, 6.0 ACRE-FEET IN HAGA #4, 23.0 ACRE-FEET IN BEE STING, 1.4 ACRE-FEET IN SCHERER #1, 1.4 ACRE-FEET IN SCHERER #2, 5.6 ACRE-FEET IN SCHERER #3, 7.0 ACRE-FEET IN SCHERER #4, 1.5 ACRE-FEET IN SCHERER #5, 4.2 ACRE-FEET IN SCHERER #6, 7.7 ACRE-FEET IN SCHERER #7, 4.2 ACRE-FEET IN SCHERER #8, 9.1 ACRE-FEET IN MANICKE #1, 9.1 ACRE-FEET IN MANICKE #2, 9.1 ACRE-FEET IN MANICKE #3, 2. ACRE-FEET IN MANICKE #4, 5.6 ACRE-FEET IN RICHERT #1, 9.1 ACRE-FEET IN RICHERT #2, 9.1 ACRE-FEET IN RICHERT #3, 5.6 ACRE-FEET IN RICHERT #4, AND 5.6 ACRE-FEET IN RICHERT #5

WATER MAY BE APPROPRIATED FOR
STORAGE DURING THE PERIOD: DECEMBER 1 THROUGH APRIL 30

DATE OF PRIORITY: SEPTEMBER 6, 1988

The area submerged by the Windhurst Reservoir, when full, will be 23.0 acres and the maximum depth of water will be 24.0 feet. The maximum height of the dam shall not exceed 28.0 feet.

The area submerged by the Haga Reservoir #1, when full, will be 2.6 acres and the maximum depth of water will be 9.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #2, when full, will be 0.8 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #3, when full, will be 0.5 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #4, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Bee Sting Reservoir, when full, will be 2.0 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 25.0 feet.

The area submerged by the Scherer Reservoir #1, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #2, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #3, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #4, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #5, when full, will be 0.5 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #6, when full, will be 0.7 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #7, when full, will be 1.0 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #8, when full, will be 0.5 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Manicke Reservoir #1, when full, will be 1.1

acres and the maximum depth of water will be 11.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #4, when full, will be 0.3 acre and the maximum depth of water will be 10.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Richert Reservoir #1, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #3, when full, will be 0.7 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #4, when full, will be 0.7 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #5, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

DAM LOCATION: NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH AND 2480 FEET EAST FROM E 1/4 CORNER, SECTION 4

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

NE 1/4 NE 1/4	MANICKE #1
SECTION 32	
NW 1/4 NW 1/4	MANICKE #2
SW 1/4 NW 1/4	MANICKE #3
SE 1/4 NW 1/4	MANICKE #4
SECTION 33	
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.	
NW 1/4 SW 1/4	HAGA #1
SECTION 3	
SW 1/4 NW 1/4	SCHERER #5

NE 1/4 SW 1/4	BEE STING
NW 1/4 SW 1/4	SCHERER #5, #7, AND #8
SW 1/4 SW 1/4	HAGA #4
SE 1/4 SW 1/4	HAGA #2 AND #3
NE 1/4 SE 1/4	WINDHURST
NW 1/4 SE 1/4	WINDHURST
SECTION 4	
NE 1/4 NE 1/4	SCHERER #3
SW 1/4 NE 1/4	SCHERER #1
SE 1/4 NE 1/4	SCHERER #2 AND #4
NE 1/4 SE 1/4	SCHERER #6
SECTION 5	
NE 1/4 NE 1/4	RICHERT #2
NW 1/4 NE 1/4	RICHERT #1 AND #3
SW 1/4 NE 1/4	RICHERT #5 AND #4
SECTION 9	

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

Measurement, recording and reporting conditions:

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

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

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, or the provision of other means to evacuate water when determined necessary by the Water Resources Director to satisfy prior downstream rights.

Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I. Additionally, before water use may begin under this permit, if the reservoir is located in channel then weirs must be installed upstream and downstream of the reservoir, and, a gated valve outlet must be installed. A written waiver may be obtained from the local Watermaster if in his judgement the installation of the weir(s)

will provide no public benefit.

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.

STANDARD CONDITIONS

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 1999.

Issued _____, 199_

DRAFT - THIS IS **NOT** A PERMIT

_____
Water Resources Department
Director

OREGON WATER RESOURCES DEPARTMENT

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

FAXED 9/25/97

To John Youngquist Date: 9/25 Page 1 of 13

Fax # 541 672-5692

From Adam

Comments:

Please give me your comments on this draft ASAP. I will wait for your comments (a few days) before I send it to Reese B. for his. I am also sending a copy to Violet.

Adam

Fax. 503-378-2496

Dam Safety	Director's Office	GIS / Mapping
Groundwater	Hanford Studies	Hearings
Hydrographics	Information (Computer) Services	Legislative & Rules Coord.
Public Information	Strat. Planning & Policy Coord.	Water Resources Comm. Liaison

Fax. 503-378-8130

Accounting / Fiscal	CWRE Coordination	Columbia / Snake Issues
Conservation	District 16 Watermaster	Enforcement
GWEB Liaison	Land Use Coordination	Northwest Region
Office Services	Personnel	Planning
Resource Management	Water Development Loan Fund	Water Use Reporting
Well Construction	Well Driller Licensing	

Fax. 503-378-6203

Adjudications	Final Proof Surveys	Hydroelectric Permits
Transfers	Water Rights	

10/27

FACSIMILE TRANSMISSION

TO: M. JOHN YOUNGQUIST
1-503-672-5692

FROM: WEISHA MIZE, ALJ

RE: YOUR LETTER OF OCT. 23 RE WINDHURST RD. APPLICATIONS

JOHN: I am unable to tell from your letter whom you are working with in the Water Rights Section of WRD regarding the amendments or corrections to the Windhurst applications. I believe they would be the most appropriate person to send the corrected applications to the participants, as I have never received a copy and would have no idea what would be the right documents to pull from the application file or to distribute to the parties. Please ask whichever staff person you have been working with to make the distribution of the corrected ~~affidavits~~ Applications to the appropriate parties,. If you would care to clue me in on which staff that might be, I'd certainly appreciate it!

By the way, contrary to your recorded message, you cannot leave a message after the long beep. You just get that really awful fax noise. Thus, I'm sending you this fax after being thwarted by your voice mail!

Sorry about the 1st fax - I meant applications, not affidavits!

M. JOHN YOUNGQUIST
WATER RESOURCES CONSULTANT

827 SE MOSHER
ROSEBURG, OREGON 97470
PHONE/FAX: (503) 672-5692

RECEIVED
OCT 2 1995
WATER RESOURCES DEPT
SALEM, OREGON

PROJECT MANAGEMENT PERMITS/LICENSING RESEARCH PLANNING

October 23, 1995

Weisha Mize, Administrative Law Judge
Oregon Water Resources Department
158 12th Street, N.E.
Salem, Oregon 97310

RE: Windhurst Road Applications R 69708 & 69654

Dear Ms. Mize:

As indicated in my correspondence dated October 3, 1995, the enclosed material is being sent to Rick Kruger, Reese Bender, Al Cook and John Drolet.

Mr. Gosson, P.E. and I propose two corrections to my correspondence dated October 3, 1995.

1. I have not enclosed the corrected applications as filed with the Oregon Water Resources Department (Department). We believe it best if the Department send the superseding applications to the various participants. Our copy is not the "official" copy as filed in the Department and we believe the review should be completed with each participant having a copy of the actual document as received by the Department.

2. The material contained herein is not the final design. It is the final concept, however, the participants may desire changes prior to investing in the actual final design and development of specifications. For example, the Department or the Oregon Department of Fish and Wildlife (ODFW) may desire a 120° V-notch weir in lieu of the proposed 90° V-notch weir.

   It seems prudent to have the "final design concept" as described herein approved before proceeding with the detailed final design and specifications. I believe there is sufficient information provided to allow the Department and ODFW to make final recommendations. If additional information is needed, we will provide any specifics requested.

The original application was for a reservoir to be constructed on Bill Creek impounding up to 100 acre feet of water. ODFW objected to the construction of a reservoir within the channel of Bill Creek. The Windhurst Road Sub District examined their options and decided to divert water from Bill Creek to an off channel reservoir in the Geiger Creek Drainage. The cost of this option is extensive and the Sub District elected to maximize their storage opportunities at the selected sites.

Water will be pumped from Bill Creek to the Windhurst Reservoir. Water will then be delivered to the Bee Sting Reservoir by gravity flow and to several private reservoirs by a combination of gravity and pump systems. The delivery system beyond the Bill Creek diversion is not described in this correspondence. Delivery of water beyond the pumping from Bill Creek does not affect any natural drainage or water source.

Bill Creek Diversion:

Pump Capabilities:

Two pumps will be installed at the Bill Creek diversion. The primary reservoir fill pump will be a 100 Hp Turbine pump with a capability of pumping up to 2.0 cubic feet/second (cfs). This pump should function well between November and June each year.

The second pump will be a 50 Hp Turbine pump with a capability of pumping up to 0.75 cfs. This pump will work with the larger pump when Bill Creek flow allows up to 2.75 cfs to be pumped. When the flow of Bill Creek is less than 2.25 cfs but greater than 1.00 cfs, the smaller pump will deliver water to the storage facility. This pump should function from June to an unknown date when the flow of Bill Creek diminishes in the spring - summer.

One of the pumps will begin pumping during spring and summer storms when the flow of Bill Creek exceeds the minimum flow agreed upon with the Oregon Department of Fish and Wildlife.

The pumps are large because of the 304 feet elevation difference between Bill Creek and the Windhurst Reservoir. The water will be pumped approximately 3,900 feet through a buried pipeline.

Pipeline:

A 10 inch PVC pipeline approximately 3,900 feet in length will deliver water from the Bill Creek diversion to the Windhurst Reservoir. Delivery of water from Windhurst Reservoir to Bee Sing Reservoir, individual storage facilities and place of use will be by either gravity pipeline or pump systems.

Fish Screening:

The intake facility will have a mesh or slotted type "trash" screen to protect the pump intakes. The removable "trash" screens will have ½ inch openings.

Each pump intake will have a commercial fish screen with a 1/8 inch maximum opening, either circular or slotted. There will be at least 3 square feet of fish screen for each cubic foot per second of pump capability. The larger pump will have a minimum of 6 square feet of screen surface and the smaller pump will have a minimum of 2.25 square feet.

Weir:

A concrete base will be constructed across Bill Creek on a bedrock ledge. The base will be up to 6 inches above the existing bedrock base. The weir will consist of a 90 degree V-notch weir with a throat depth of 1.0 foot. The weir plate will be approximately 1.5 feet high by 3.5 feet across. When the flow of Bill Creek exceeds 2.50 cfs, water will flow above the weir

opening and across the weir plate. We anticipate the average fall/winter/spring flow s to be five cubic feet/second, or more, at this location.

This type of weir was selected to better accommodate upstream and downstream fish passage. Flow through the weir should provide a good attraction flow and the structure is not too high to prevent migration throughout the winter at any flow. The weir is removable for two reasons. First, if during the initial operation it is determined that a different weir would be preferable, it will be easy to replace the "weir plate". Second, the "weir plate" may be removed to clean out silt buildup in the backwater that may occur during operation.

A staff gage will be placed on the upstream face of the weir plate. 0.00 will note the location of the weir crest and 1.00 will be the top of the weir. The staff gage will be in 0.01 of a foot increments.

The ODFW and Watermaster will be provided access to the weir location throughout the year.

Level Control Device:

An electronic level control device will be installed above the weir within the weir/pumping pool. This device will control the availability of each pump. The pumps will be used based on the following proposed flows of Bill Creek:

0 - 1.00 cfs	pumps may not operate
1.00 - 2.25 cfs	smaller pump may operate
2.25 - 3.00 cfs	larger pump may operate
3.00 - higher	both pumps may operate

Actual pump usage will depend on the Windhurst Reservoir level and the available flow in Bill Creek.

The District is aware of the May 22, 1964 minimum flow on the Coquille River as amended April 1, 1980. We are not familiar with any recent instream flow requests that the ODFW may have on Bill Creek or Bear Creek, however, it is not the intention to "dry up" Bill Creek at any time throughout the year.

We have visited Bill Creek on several occasions during the year. Some years, Bill Creek has little or no flow at the proposed pump site. Review of the chart above suggests that when the flow is 1.0 cfs, or less, pumping will not occur. We are also aware that the storage season may not begin until November 1 or later each year. We do not anticipate storing water until sufficient fall rains occur that will protect the anadromous fish needs and allow for storage to begin.

We also recognize that the "minimum" desired flow may vary from month to month. The level control device will be adjustable to allow seasonal variance in pump availability. The Sub District would appreciate being allowed to pump when sufficient rainfall has occurred to satisfy all demands on Bill Creek.

Measuring Devices:

In addition to the weir in Bill Creek, there will be a totalizing meter located on the pipeline at the point of diversion. In addition, each participant in the project will measure his/her water from the project.

All measurements will be in acre feet diverted.

Enclosed is a sketch showing how the diversion works will set along Bill Creek. When specific items are approved by ODFW and the Department, the final design plans and specifications will proceed. If the general scheme of things is acceptable, a contour map of the area where the pump station and weir location will be completed.

Clearing of the proposed Windhurst Reservoir has been initiated. The area is overgrown with the typical coastal brush and clearing is necessary to verify the original contour mapping. When the area has been cleared, the final dike location will be surveyed and staked. As the clearing progresses, either an island or peninsula, depending on the topography, is being left for future wildlife habitat. This was agreed upon during our meeting last October.

I will be at the National Water Resources Meeting through November 6, 1995. Please contact me if you have any questions or comments after November 6. We look forward to discussing the particulars with you in the near future.

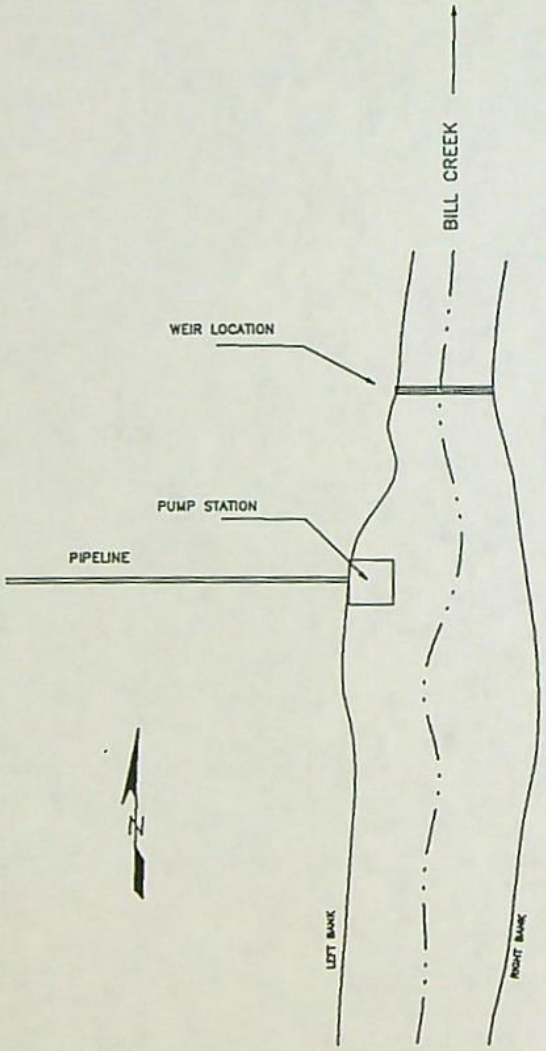
Sincerely,

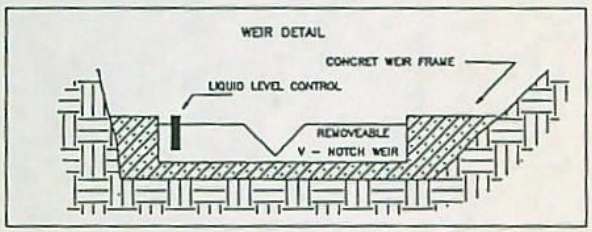
M. John Youngquist

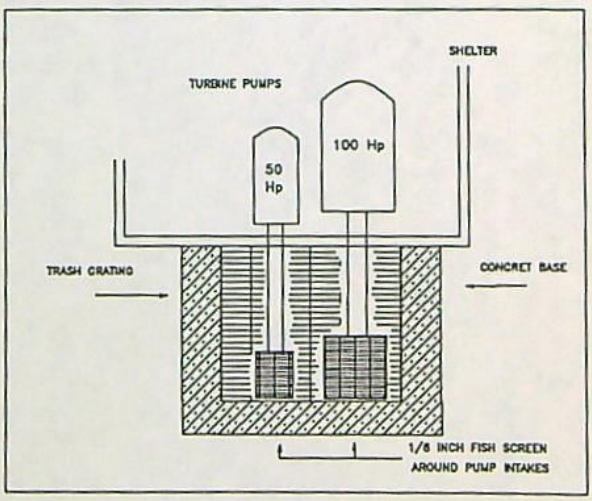
cc: Ronnie Haga, Chairman
Wayne Scherer
Reese Bender, Biologist
Rick Kruger, Biologist
Al Cook, Regional Manager
John Drolet, Watermaster, Dist. 19
James F. Gosson, P.E.

SKETCH MAP OF PROPOSED BILL CREEK DIVERSION

October, 1995







- ONE PUMP SITE (TWO PUMPS)

- REMOVE RANGE-6-STAGE MONITORING CONDITION

- NOV - MAY 31

- MONITOR & MAINTAIN FLOW RECORDS FOR BILL CRK FOR THREE YRS TO ESTABLISH BASE LINE RECORD

- MAINTAIN 3-5 IN BILLS CRK, LESS THAN 5 ONLY IF OK W/ ODFW

- WEIR & STAFF PLATE TO MONITOR BILL CRK

- NEED A LIST OF ADDRESSES OF OWNERS

- LIND HURST 470.0

HAGA 1 9.1
2 5.0
3 2.9
4 6.0

BEE STING 23.0

SCHERER 1 1.4
2 1.4
3 5.6
4 7.0
5 1.5
6 4.2
7 7.7
8 4.2

MANICKE 1 9.1
2 9.1
3 9.1
4 2.7

RICHERT 1 5.6
2 9.1
3 9.1
4 5.6
5 3.6

Oregon

DEPARTMENT OF
FISH AND
WILDLIFE

CHARLESTON
DISTRICT OFFICE

RECEIVED
JAN 17 1996
WATER RESOURCES DEPT.
SALEM, OREGON

January 12, 1996

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

RE: Water Rights Applications #S -69654 & R -69708

From the limited information provided in your Public Notice of Water Right Application Processing dated 12/19/95, these applications appear to be the Windhurst Road applications for Bill Creek (Bear Creek/Coquille River). These applications have been in contested status since about August, 1990, under the guidance of Hearings Referee Weisha Mize.

ODFW has been working with the applicants for some time in an attempt to resolve this issue. Good progress is being made, and we hope to come to full resolution soon.

Therefore, we request that no action be taken on these applications in their current form while the parties are working towards resolution.

Pertaining to these applications in their original form, ODFW's formal comment letters on these applications are still valid. These letters to WRD and to the Commission are dated: 9/2/88, 9/23/88, 4/7/89, & 4/27/89.

Thank you for the opportunity to comment.

Sincerely,

Reese E Bender

Reese E. Bender
Assistant District Fishery Biologist

Enclosure
c: ODFW--HCD

4475 Boat Basin Drive
PO Box 5430
Charleston, OR 97420
(503) 888-5515
FAX (503) 888-6860

Oregon

WATER
RESOURCES
DEPARTMENT

OCTOBER 18, 1996

M. JOHN YOUNGQUIST
827 SE MOSHER
ROSEBURG, OR 97470

Reference File Numbers: R-69708 & S-69654,
APPLICANT- WINDHURST ROAD SUB DISTRICT

Dear Mr. Youngquist,

I am in receipt of your letter dated October 11, 1996 requesting the Department delay processing of the above listed files.

The Department may allow a "Time Out" and hold up processing for a reasonable period of time. The extension time out period shall not exceed 180 days except upon a finding by the Director that a longer extension is reasonable and necessary. By asking for an extension, you are waiving your rights to expedient processing.

No action will take place on this application until after April 18, 1997, unless other arrangements are made earlier.

If you have any questions or concerns, please give me a call at (503) 378-8455 extension 269.

Sincerely,

Ken Dowden
Water Rights Examiner
Water Right Division

cc: Ronny O. Haga
file
Adam Sussman, OWRD
District 19 Watermaster
Rachel Baer, OWRD, Tracking Center

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

PROTEST TO A PROPOSED FINAL ORDER

Application Number: R-69708 & S-69654

Applicant's Name: Windhurst Road Sub District
Formally Windhurst Road Water Corporation

Name, address and telephone number of protestant:

M. John Youngquist
827 SE Mosher Ave.
Roseburg, Oregon 97470 Phone/Fax: (541) 672 - 5692

on behalf of:
Windhurst Road Sub District
P. O. Box 503
Bandon, Oregon 97411 Phone: (541) 347 - 3062

Interest in the proposed final orders:

This protest is on behalf of and at the request of the directors of the Sub District affected by the proposed final order.

Describe how the proposed final orders will be detrimental to the applicant's interest:

1. These files have been under contested case status for several years. The original application was for construction of a dam in the channel of Bill Creek. The in-channel reservoir was objected to by the Oregon Department of Fish and Wildlife (ODFW) and the Sub District moved the reservoir(s) off channel.

   The proposed final orders (PFOs) do not recognize the negotiations and agreements the Sub District has with ODFW.

2. The PFOs do not address the agreement between ODFW and the Sub District. The following language should be included in both permits:

   > "A memorandum of understanding between the Oregon Department of Fish and Wildlife and the Windhurst Road Sub District with conditions appertaining to the use of water from Bill Creek will be approved by the ODFW before diversion of water may occur."

3. The memorandum of understanding will address "by pass" flows for this project, period of allowed pumping for storage and amount of water to be pumped. The Sub District will pump less than 3.0 cfs instead of the 10 cfs noted on the PFOs and will have adequate fish screening at the diversion to protect the resource.

Fish passage will not be necessary because the only obstruction in Bill Creek will be construction of a weir to measure by pass flows. The weir will be constructed in such a manner not to impede the passage of fish.

The allowed period of use (pumping to storage) will occur from November - May 31 each year.

4. The height of dam and amount of water impounded in the Windhurst Reservoir requires that engineered plans and specifications are needed for the structure. Mr. John Falk and Mr. Barry Norris from the Department have made their required initial inspection of the site.

How the Proposed Final Order may be corrected:

1. Insert the language referring to the memorandum of understanding between ODFW and the Sub District.

2. Change the period of use from November - April 30 each year to November - May 31 each year.

3. Reduce the amount of appropriation from 10 cfs to 3 cfs, or less.

4. Modify the language referring to fish passage to allow a waiver for passage if the weir to be constructed does not impede the fish passage.

5. Inform Weisha Mize of the status of these applications.

6. Note that engineered plans and specifications are required.

Cite any legal authority supporting the protest:

None cited.

Contest Case Hearing:

The Sub District and ODFW have been attempting to resolve these files without having a contested case hearing. It would be acceptable to have a meeting in Salem between Stephanie Birchfield, Reese Bender, Adam Sussman and the Sub District to resolve the issues.

M. John Youngquist

9-18-96
Date

cc: Windhurst Road Sub District
Al Cook, Regional Manager

Fish District: Coos/Coquille

WAB #

Application # R— 69708

Applicant Name Windhurst Road Wate

Date: March 27, 1996

AREA

☒ Source Watershed

☐ Senior instream water right application to junior out-of-stream application

☐ No water availability information

INFORMATION/CONDITIONS

1. Are there water quality concerns related to salmon/steelhead/trout? Y (N)
   Should the application be denied? Y N
   Should the application be restricted? Y N

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec

2. Are there adequate flows to protect salmon/steelhead/trout? Y (N)
   Should the application be denied? Y (N)
   Should the application be restricted? (Y) N ☒ Based on water availability

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec
				X								X	

3. Domestic
   Should domestic use be conditioned to human consumption? Y N ☐ Based on water availability

4. Fish Screening and Passage
   — A. Requires fish screening and passage, with ODFW certification (applications > 0.5 cfs).
   — B. Requires fish screening and passage, without ODFW certification (applications < 0.5 cfs).
   — C. No dam or obstruction without a fishway.
   — M. Screening may be required No screens

5. Miscellaneous
   — A. Reservoir Filling
   — B. Water Quality Permits
   — C. Return Flow
   — D. Time Limited Water Right
   X E. Other Reservoir Special

6. Measurement and Reporting
   — A. Small diversions (<0.1 cfs or <9.2 ac/ft. may/may)
   — B. Medium diversions (0.1 cfs or >9.2 and <1.5 cfs or <100 ac/ft. shall/may)
   — C. Large diversions (1.5 cfs or >100 ac/ft. shall/shall)
   — T. Totallzing

FINDINGS

☐ Permit is proposed for denial prior to interagency team review for fishery concerns.

☐ Deny permit due to fishery concerns, except for
   — A. Domestic (which may be limited to human consumption, see above)
   — B. Livestock
   — C. Unless water is from storage

☐ Do not condition further due to fishery concerns.

☒ Condition permit due to fishery concerns listed above.

Faxed to Reese Bender R-69708

WATER AVAILABILITY TABLE

Basin: South Coast
Water Availability Subbasin: 1603000000000000 (and Nested Subbasins)
Exceedance Level: 50
Time: 14:42 Date: 09/16/1994

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	1600000000000000	YES	YES	YES	YES	YES	YES	YES	NO	YES	NO	YES	YES	YES
2	1603000000000000	YES	YES	YES	YES	YES	YES	YES	NO	NO	NO	YES	YES	YES

R-69708 2

DETAILED REPORT ON WATER AVAILABILITY

Basin: South Coast
Stream: BEAR CR > COQUILLE R
Water Availability Subbasin: 1603000000000000
Exceedance Level: 50
Time: 14:42 Date: 09/16/1994

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Water Available 1/1/93	CU + Stor After 1/1/93	Net ~~Minimum~~ Flow	Instream Water Rights	Net Water Available
1	109.00	0.00	109.00	0.28	109.00	10.00	98.70
2	119.00	0.00	119.00	0.35	119.00	10.00	109.00
3	87.60	0.10	87.50	0.22	87.30	10.00	77.30
4	60.20	0.10	60.10	0.15	60.00	10.00	50.00
5	29.90	0.20	29.70	0.06	29.60	10.00	19.60
6	14.70	0.60	14.10	0.02	14.10	6.00	8.08
7	6.51	0.82	5.69	0.00	5.69	2.00	3.69
8	3.20	0.68	2.52	0.00	2.52	2.00	0.52
9	2.25	0.33	1.92	0.00	1.92	2.00	-0.08
10	2.56	0.11	2.45	0.00	2.45	2.00	0.45
11	20.80	0.10	20.70	0.03	20.70	10.00	10.70
12	89.20	0.10	89.10	0.23	88.90	10.00	78.90
Stor	32600	188	32400	81	32300	5030	27300

DETAILED REPORT OF ISWRs

Basin: South Coast
Stream: BEAR CR > COQUILLE R
Water Availability Subbasin: 1603000000000000
Time: 14:42 Date: 09/16/1994

	ISWRs				
APP # : 70230A	0	0	0	0	RESULTANT
STATUS: Application					
1	10.0	0.0	0.0	0.0	10.0 A
2	10.0	0.0	0.0	0.0	10.0 A
3	10.0	0.0	0.0	0.0	10.0 A
4	10.0	0.0	0.0	0.0	10.0 A
5	10.0	0.0	0.0	0.0	10.0 A
6	6.0	0.0	0.0	0.0	6.0 A
7	2.0	0.0	0.0	0.0	2.0 A
8	2.0	0.0	0.0	0.0	2.0 A
9	2.0	0.0	0.0	0.0	2.0 A
10	2.0	0.0	0.0	0.0	2.0 A
11	10.0	0.0	0.0	0.0	10.0 A
12	10.0	0.0	0.0	0.0	10.0 A

R-69708 4.

DETAILED REPORT ON WATER AVAILABILITY

Basin: South Coast
Stream: COQUILLE R > PACIFIC OCEAN
Water Availability Subbasin: 1600000000000000
Exceedance Level: 50
Time: 14:43 Date: 09/16/1994

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Water Available 1/1/93	CU + Stor After 1/1/93	Net Minimum Flow	Instream Water Rights	Net Water Available
1	5140.00	20.00	5120.00	1.40	5120.00	360.00	4760.00
2	5610.00	20.00	5590.00	1.55	5590.00	340.00	5250.00
3	5190.00	10.00	5180.00	1.33	5180.00	340.00	4840.00
4	2610.00	20.00	2590.00	0.61	2590.00	340.00	2250.00
5	1190.00	30.00	1160.00	1.04	1160.00	340.00	819.00
6	625.00	52.00	573.00	2.14	571.00	200.00	371.00
7	275.00	73.00	202.00	3.00	199.00	71.00	128.00
8	134.00	62.10	71.90	0.94	71.00	71.00	-0.04
9	117.00	34.80	82.20	0.55	81.70	71.00	10.70
10	187.00	15.00	172.00	0.10	172.00	380.00	-208.00
11	2290.00	10.00	2280.00	0.39	2280.00	380.00	1900.00
12	5000.00	20.00	4980.00	0.70	4980.00	360.00	4620.00
Stor	1700000	22000	1680000	824	1670000	195000	1480000

RL-69708 5.

DETAILED REPORT OF ISWRs

Basin: South Coast
Stream: COQUILLE R > PACIFIC OCEAN
Water Availability Subbasin: 1600000000000000
Time: 14:43 Date: 09/16/1994

	ISWRs				
APP # :	384A	0	0	0	RESULTANT
STATUS:	Certificate				
1	360.0	0.0	0.0	0.0	360.0 C
2	340.0	0.0	0.0	0.0	340.0 C
3	340.0	0.0	0.0	0.0	340.0 C
4	340.0	0.0	0.0	0.0	340.0 C
5	340.0	0.0	0.0	0.0	340.0 C
6	200.0	0.0	0.0	0.0	200.0 C
7	71.0	0.0	0.0	0.0	71.0 C
8	71.0	0.0	0.0	0.0	71.0 C
9	71.0	0.0	0.0	0.0	71.0 C
10	380.0	0.0	0.0	0.0	380.0 C
11	380.0	0.0	0.0	0.0	380.0 C
12	360.0	0.0	0.0	0.0	360.0 C

Oregon

WATER
RESOURCES
DEPARTMENT

September 19, 1996

Ronny O. Haga
Windhurst Road Subdivision
P.O. Box 503
Bandon, OR 97411

RE: Proposed New Dams
Bee Sting and Bills Creek
Application R-69708

Dear Mr. Haga,

Recently, I toured both of the damsites proposed for construction of Bee Sting and Bills Creek Reservoirs with Mr. Frank Toor and Mr. Dave Phillipi. The following instruction are for your use in helping you obtain a permit for your proposed projects. Please excuse the repetition of any information that you may have already known.

The Application For A Permit To Construct A Reservoir you submitted for the referenced projects located in **Section 4, T29S, R14W, Coos County** has been forwarded to Dam Safety. Based on a cursory review of your application and other information in your file, it appears that both proposed projects will exceed Oregon's statutory height and size requirements for review and approval of the proposed design plans and specifications.

Oregon Statute (ORS 540.400) exempts dams and reservoirs less than 10.0 feet in height **or** 9.2 acre-feet storage capacity from certain specific engineering design requirements. All large structures must be designed by a professional engineer licensed to practice in Oregon. Accordingly, it is necessary that plans and specifications for all large-sized projects be submitted to the Water Resources Dam Safety Engineer for review and approval prior to issuance of a reservoir permit.

Before you pay an engineer to design either of these dams, it may be desirable for you to wait until the Final Order/Draft Permit has been prepared by the Water Rights section. In this manner, unnecessary cost to you can be delayed or avoided until you have a better idea of whether a permit can/will be issued for this project(s). At this time, a conceptual or preliminary design may help the Water Rights section expedite processing of your application, but is not required.

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

Regardless, please be advised that no permits can/will be issued until a final ready-for-construction set of plans and specifications, prepared and stamped by an engineer licensed in Oregon, has been approved by the Water Resources Dam Safety program. The final set of drawings submitted for approval should be drafted on mylar, vellum, or similar quality reproducible stock. The reproducible drawings and 2 sets of blueline prints together with 2 sets of specifications and one set of supporting calculations should be sent directly to the Dam Safety section at the address listed on this letterhead.

If and when a permit is issued for these projects, one set of approved bluelines and specifications will then be returned to you; the others will remain here for public record. I have enclosed for your information a checklist of required items that we typically use for our review of most proposed dam/reservoir designs.

We are available for consultation should either you or your engineer have any questions; use of the referenced application number will help us to answer questions regarding the status of your application. Thank you for your cooperation and patience. If I can be of assistance in any way, please do not hesitate to let me know.

Sincerely,

John Falk

John A. Falk, PE
Dam Safety

cc: Water Rights
file

enclosure

Oregon

WATER
RESOURCES
DEPARTMENT

CERTIFIED MAIL
Return Receipt Requested

August 6, 1996

WINDHURST ROAD WATER CORPORATION
PO BOX 503
BANDON, OR. 97411

RE: Application File # R-69708 & S-69654

Dear Applicant:

On **AUGUST 6, 1996**, a Proposed Final Order was sent from the Department requesting additional information necessary to complete your application for water use. As of today, these items have not been received:

- The addresses of all property owners in this application. We have not received this as of today, please forward this information.

- The location of your points of diversion, for each reservoir, by reference to a recognized public land survey corner. The locations may be shown by distance and bearing or by coordinates (distance in feet north or south and distance in feet east or west from a recognized public land survey corner).

Please submit these items by **SEPTEMBER 20, 1996**. If we do not receive the items requested above by this time, we may reject your application consistent with ORS 537.153. If your application is rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

Should you have any questions regarding your application or the required materials listed above, or if you need to request an extension of time, please call me personally at 1-800-624-3199, extension 454.

Sincerely,

Gary Holliday

Gary Holliday
Water Right Specialist

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

Application R-69708

COPY CHECK-OFF SHEET FOR PROPOSED FINAL ORDERS

CC: FILE # R-69708

WATERMASTER # 19

REGIONAL MANAGER: ~~SOUTH CENTRAL~~ SW

ODF&W - Coos County:

CWRE (if agent): JAMES F GOSSON #054

DEQ

OTHER STATE AGENCY IF NECESSARY: KEN STAHR, OWRD, WATER AVAILABILITY SECTION

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; FRONT COUNTER

OTHER ADDRESSES OF PEOPLE WHO PAID THE $10 FEE:

PEOPLE WITH OBJECTIONS, COMMENTS OR REQUESTED COPY W/O $10 (SEND THE $10 LETTER):
COOS COUNTY HIGHWAY DEPARTMENT COOS COUNTY COURTHOUSE ANNEX COQUILLE, OR. 97423
LOWELL AND MARY MEYER P.O. BOX 582 BANDON, OR. 97411
ROGGE FOREST PRODUCTS BANDON, OR. 97411
CITY OF BANDON CITY HALL BANDON, OR. 97411

CASEWORKER : GH

PFO CHECKLIST

Application #: R 69708 Vol ____ Subbasin ____

Basin: 17 WAB: ____

Township ____ Range ____ Section ____ 1/4 1/4 ____

1. Completeness checklist verified? (Y) / N

2. Indicators that the process should not continue (ie - protest, items missing, letter to file indicating hold, other) (Y) / N Plans + Specs

NA 3. Groundwater review A B C D
   a. Is second groundwater review necessary? Y / N reason ____
   b. Is the well located in a groundwater limited area? Y / N

4. SWW Y / (N) Triage (Y) / N conditions/restrictions (Y) / N Res. Special Not allowed May 1 - Nov. 30

5. Basin Program limitations? Y / (N) ____

6. Withdrawal? Y / (N) season allowed ____

7. Basin Maps have been checked. (Y) / N The River Mile is ____

8. Water Availability (50% < July 17, 1992 OR 80% [50% storage] > July 17, 1992) NA ____
   a. Notify Ken Stahr Y / N (Q, Duty, or Season) ____

N/A 9. Rate/Duty/Season ____

10. Use Storage Period of Allowed Use ____

11. Priority Date(s) Sep. 6, 1988 TR / IR mail date ____

12. B.O.R. project Y / (N) contract # ____

13. TMDL Basin? Y / (N) (Tualatin, Yamhill, Pudding) Division 33 Y / N (Abv Bonn. >July 17,92 //// Blw Bonn >April 18,94 or June 3,94)

14. Conflicts Y / (N) ____

15. Objections? (Y) / N COE WRD PFO different from IR/TR Y / N ____

16. Conditions (from IR/TR/ or Additional) (Y) / N (macro series 4 - 7) ____

17. Land use approval (OK'd) needs approval · county notified NA

18. SIZE Small (≤0.1cfs, ≤9.2AF), Medium (>0.1 or <1.5cfs, >9.2 or <100AF) Large (≥1.5 cfs, ≥100 AF)?

19. Watermaster Dist: (1 2 16 18 - NWR) (3 4 5 - NCR) (6 8 9 10 - ER) (11 12 17 - SCR) (14 15 (19) - SWR)

Name: [signature] Date: 7-30-96 save to m:\t\pfo\done\week#\name

INITIAL REVIEW CHECKLIST

APPLICATION # R 69708
BASIN 17
WAB # 160300
POU-WAB 160300

1. ✓ ITEMS NOTED AS MISSING BY COMPLETENESS TEAM ARE NOW IN FILE
2. N/A GW - A, B, OR C (IF B OR C THEN 3b,d;4;5;6;8 DO NOT APPLY)

3. DETERMINATION OF WHETHER USE IS OR IS NOT ALLOWED BY...
   a. ✓ BASIN PLAN
   b. ✓ LEGISLATIVE WITHDRAWAL (ORS 538)
   c. ✓ RULES
   d. ✓ SCENIC WATERWAY (OTHER THAN WA ORS 390.826)
   e. ____ OTHER ____

4. ✓ WATER AVAILABILITY(WA) CFS 6.14 (AF) MONTHS Nov. 1 - July 31
   50 % BEFORE JULY 17, 1992; 80 % LIVE FLOW 50 % STORAGE AFTER JULY 17, 1992

5. ✓ INSTREAM WATER RIGHT EXEMPTIONS ARE DOCUMENTED ON WATER AVAILABILITY SHEETS

6. NO USE IS NOT FROM A BOR PROJECT OR A SIGNED CONTRACT IS IN THE FILE

7. N/A GROUND WATER REVIEW HAS BEEN EVALUATED (USE WA DATABASE IF GW A)
   REQUIRED CONDITIONS (GENERIC 7B)____

8. DIVISION 33 HAS BEEN ADDRESSED...
   a. N/A SEASON FOR DIRECT FLOW (ABOVE BONN ONLY)____
   b. N/A WATER QUALITY PARAGRAPH
   c. N/A EFFICIENCY DESCRIPTION (BELOW BONN AND MORE THAN 1 CFS)

9. ✓ PLAT CARDS HAVE BEEN CHECKED AND A COPY OF THE MAP IS ATTACHED SHOWING THE CONFLICT WITH STORAGE

10. N/A IRRIGATION SEASON____(DECREE, BASIN PLAN, PERMIT, GENERIC)

11. N/A RATE & DUTY____(DECREE, BASIN PLAN, PERMIT, GENERIC)
    GROUND WATER ALWAYS GENERIC FOR RATE AND DUTY
    # OF ACRES PRI____SUPP____NOT SURE____

12. ✓ ALL DOCUMENTS USED IN EVALUATION ARE ATTACHED AND HIGHLIGHTED AND PACKET IS STAPLED TOGETHER

13. ✓ ISSUES HINDERING PROCESS Dam Specs

14. ✓ WATERMASTER # 19

15. ✓ REGNL MANGER - SEND COPY(SW,SC,E) DO NOT SEND COPY TO(NW,NC)

16. ✓ BASIN # AND WAB # ARE ADDED & SPELL ✓ HAS BEEN COMPLETED

17. ✓ LETTER WAS SAVED FROM M:\T\IR\WORK TO M:\T\IR\SENT

NAME Tony DATE 11-28-95

OREGON WATER RESOURCES DEPARTMENT
ADMINISTRATIVE RULES
CHAPTER 690
DIVISION 517
SOUTH COAST BASIN PROGRAM

Classifications

690-517-001

(1) Ground water resources in sections or the portions of Sections 13, 14, 22, 23, 26, 27, 32, 33 and 34 of Township 23 South, Range 13 West; 2, 3, 4, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 27, 28, 29, 31, 32, 33 and 34 of Township 24 South, Range 13 West; and 3, 4, 5 and 6 of Township 25 South, Range 13 West, bounded on the north by Tenmile Creek, on the west by the Pacific Ocean, on the south by Coos Bay and on the east by Highway 101 are hereby classified for single or group domestic, livestock, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and any single industrial or commercial use not exceeding 5,000 gallons per day.

(2) The waters of the following lakes are classified only for domestic, livestock, municipal, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife. The Director of the Water Resources Department may place specific limits on municipal appropriations from the lakes or require outlet control structures to protect recreation, fish life and wildlife uses:

(a) Bradley Lake 4900

✓(b) Eel Lake 01010

✓(c) Garrison Lake 00

(3) All other natural lakes are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife.

(4) Waters of the following streams and all tributaries are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area, fire control and instream use for recreation, fish life and wildlife.

✓(a) Glenn Creek (tributary to the East Fork Millicoma River) 070142

✓ (b) Brush Creek 2500

✓(5) The waters of the Middle Fork of the Coquille River and tributaries upstream from the confluence with Holmes Creek are classified only for domestic, livestock and irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife during the period from July 1 to September 30 of every year. Water stored between October 1 and June 30 may be used at any time for purposes specified in section (8). 1611234-10

✓(6) The waters of the West Fork Millicoma River and tributaries above Stall Falls are classified for municipal, domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife. 070131O to 070131Z3

Adopted May 22, 1964. Amended May 20, 1977; January 12, 1979; April 1, 1980; May 8, 1981 and September 25, 1984.

✓ 3400 ✓ 1601

(7) The waters of Pony Creek above lower Pony Creek Dam and Ferry and Geiger Creeks above the Ferry Creek - Geiger Creek confluence are classified for municipal use.

(8) All other surface and ground water resources are hereby classified for domestic, livestock, municipal, industrial, fire control, irrigation, agricultural use, mining, power development, recreation, wildlife and fish life uses.

(9) Applications for the use of water for any purposes contrary to classifications specified in the basin program shall not be accepted or granted except as provided by law. The Director shall notify the Board and other interested individuals or agencies of the intent to accept an application for use in conflict with the adopted program in accordance with ORS 536.380 if the proposed use will not have a significant impact on any other water use as provided in sections (1) through (8) of OAR 690-517-001 and in 690-517-002 through 690-517-003.

(10) The planning, construction and operation of any structures or works for the utilization of water in accordance with the aforementioned classifications are to conform with the applicable provisions of ORS 536.310, including but not restricted to the recommendation of the multiple-purpose concept.

Reservations

690-517-002

Water in the amounts specified is reserved in the following streams for municipal use:

✓ (1) Chetco River - three cfs, downstream from the confluence with the North Fork Chetco River

✓ (2) Winchuck River - one cfs, downstream from the confluence with Bear Creek

Minimum Perennial Streamflows

690-517-003

(1) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses and irrigation of noncommercial gardens not exceeding one-half acre in area shall be allowed for the waters of the streams and tributaries listed in Table 1 when flows are below the specified levels.

(2) The Water Policy Review Board requests the opportunity to review applications for an allowed beneficial use that has traditionally been identified as nonconsumptive or take-and-put, such as fish hatcheries, hydroelectric facilities, municipal or water process industries that could potentially impact, in an adverse way, the Board's minimum flow regime or the public interest. The Water Policy Review Board intends to continue to protect, in its entirety, that portion of the stream system on which any minimum streamflow has been established. Permitting procedures and water use regulation should reflect that objective as far as possible under the law. The Board solicits the advice or complaints of any party who is aware that the objectives are not being met.

(3) Minimum flows established in the Water Resource Program for the South Coast Basin dated May 22, 1964 (Table 3), shall remain in full force and effect except as follows:

(a) The minimum perennial streamflow for the Elk River above U.S. Highway 101 crossing (45 cfs) is rescinded.

WATER AVAILABILITY TABLE

Basin: South Coast
Water Availability Subbasin: 1603000000000000 (and Nested Subbasins)
Exceedance Level: 50
Time: 14:42 Date: 09/16/1994

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	1600000000000000	YES	YES	YES	YES	YES	YES	YES	NO	YES	NO	YES	YES	YES
2	1603000000000000	YES	YES	YES	YES	YES	YES	YES	NO	NO	NO	YES	YES	YES

DETAILED REPORT ON WATER AVAILABILITY

Basin: South Coast
Stream: BEAR CR > COQUILLE R
Water Availability Subbasin: 1603000000000000
Exceedance Level: 50
Time: 14:42 Date: 09/16/1994

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Water Available 1/1/93	CU + Stor After 1/1/93	Net Minimum Flow	Instream Water Rights	Net Water Available
1	109.00	0.00	109.00	0.28	109.00	10.00	98.70
2	119.00	0.00	119.00	0.35	119.00	10.00	109.00
3	87.60	0.10	87.50	0.22	87.30	10.00	77.30
4	60.20	0.10	60.10	0.15	60.00	10.00	50.00
5	29.90	0.20	29.70	0.06	29.60	10.00	19.60
6	14.70	0.60	14.10	0.02	14.10	6.00	8.08
7	6.51	0.82	5.69	0.00	5.69	2.00	3.69
8	3.20	0.68	2.52	0.00	2.52	2.00	0.52
9	2.25	0.33	1.92	0.00	1.92	2.00	-0.08
10	2.56	0.11	2.45	0.00	2.45	2.00	0.45
11	20.80	0.10	20.70	0.03	20.70	10.00	10.70
12	89.20	0.10	89.10	0.23	88.90	10.00	78.90
Stor	32600	188	32400	81	32300	5030	27300

DETAILED REPORT OF ISWRs

Basin: South Coast
Stream: BEAR CR > COQUILLE R
Water Availability Subbasin: 1603000000000000
Time: 14:42 Date: 09/16/1994

	ISWRs				
APP # : 70230A	0	0	0	0	RESULTANT
STATUS: Application					
1	10.0	0.0	0.0	0.0	10.0 A
2	10.0	0.0	0.0	0.0	10.0 A
3	10.0	0.0	0.0	0.0	10.0 A
4	10.0	0.0	0.0	0.0	10.0 A
5	10.0	0.0	0.0	0.0	10.0 A
6	6.0	0.0	0.0	0.0	6.0 A
7	2.0	0.0	0.0	0.0	2.0 A
8	2.0	0.0	0.0	0.0	2.0 A
9	2.0	0.0	0.0	0.0	2.0 A
10	2.0	0.0	0.0	0.0	2.0 A
11	10.0	0.0	0.0	0.0	10.0 A
12	10.0	0.0	0.0	0.0	10.0 A

3/8/90

DETAILED REPORT ON WATER AVAILABILITY

Basin: South Coast
Stream: COQUILLE R > PACIFIC OCEAN
Water Availability Subbasin: 1600000000000000
Exceedance Level: 50
Time: 14:43 Date: 09/16/1994

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Water Available 1/1/93	CU + Stor After 1/1/93	Net Minimum Flow	Instream Water Rights	Net Water Available
1	5140.00	20.00	5120.00	1.40	5120.00	360.00	4760.00
2	5610.00	20.00	5590.00	1.55	5590.00	340.00	5250.00
3	5190.00	10.00	5180.00	1.33	5180.00	340.00	4840.00
4	2610.00	20.00	2590.00	0.61	2590.00	340.00	2250.00
5	1190.00	30.00	1160.00	1.04	1160.00	340.00	819.00
6	625.00	52.00	573.00	2.14	571.00	200.00	371.00
7	275.00	73.00	202.00	3.00	199.00	71.00	128.00
8	134.00	62.10	71.90	0.94	71.00	71.00	-0.04
9	117.00	34.80	82.20	0.55	81.70	71.00	10.70
10	187.00	15.00	172.00	0.10	172.00	380.00	-208.00
11	2290.00	10.00	2280.00	0.39	2280.00	380.00	1900.00
12	5000.00	20.00	4980.00	0.70	4980.00	360.00	4620.00
Stor	1700000	22000	1680000	824	1670000	195000	1480000

DETAILED REPORT OF ISWRs

Basin: South Coast
Stream: COQUILLE R > PACIFIC OCEAN
Water Availability Subbasin: 1600000000000000
Time: 14:43 Date: 09/16/1994

APP # : 384A 59863	0	0	0	0	RESULTANT
STATUS: Certificate					

1	360.0	0.0	0.0	0.0	0.0	360.0 C
2	340.0	0.0	0.0	0.0	0.0	340.0 C
3	340.0	0.0	0.0	0.0	0.0	340.0 C
4	340.0	0.0	0.0	0.0	0.0	340.0 C
5	340.0	0.0	0.0	0.0	0.0	340.0 C
6	200.0	0.0	0.0	0.0	0.0	200.0 C
7	71.0	0.0	0.0	0.0	0.0	71.0 C
8	71.0	0.0	0.0	0.0	0.0	71.0 C
9	71.0	0.0	0.0	0.0	0.0	71.0 C
10	380.0	0.0	0.0	0.0	0.0	380.0 C
11	380.0	0.0	0.0	0.0	0.0	380.0 C
12	360.0	0.0	0.0	0.0	0.0	360.0 C

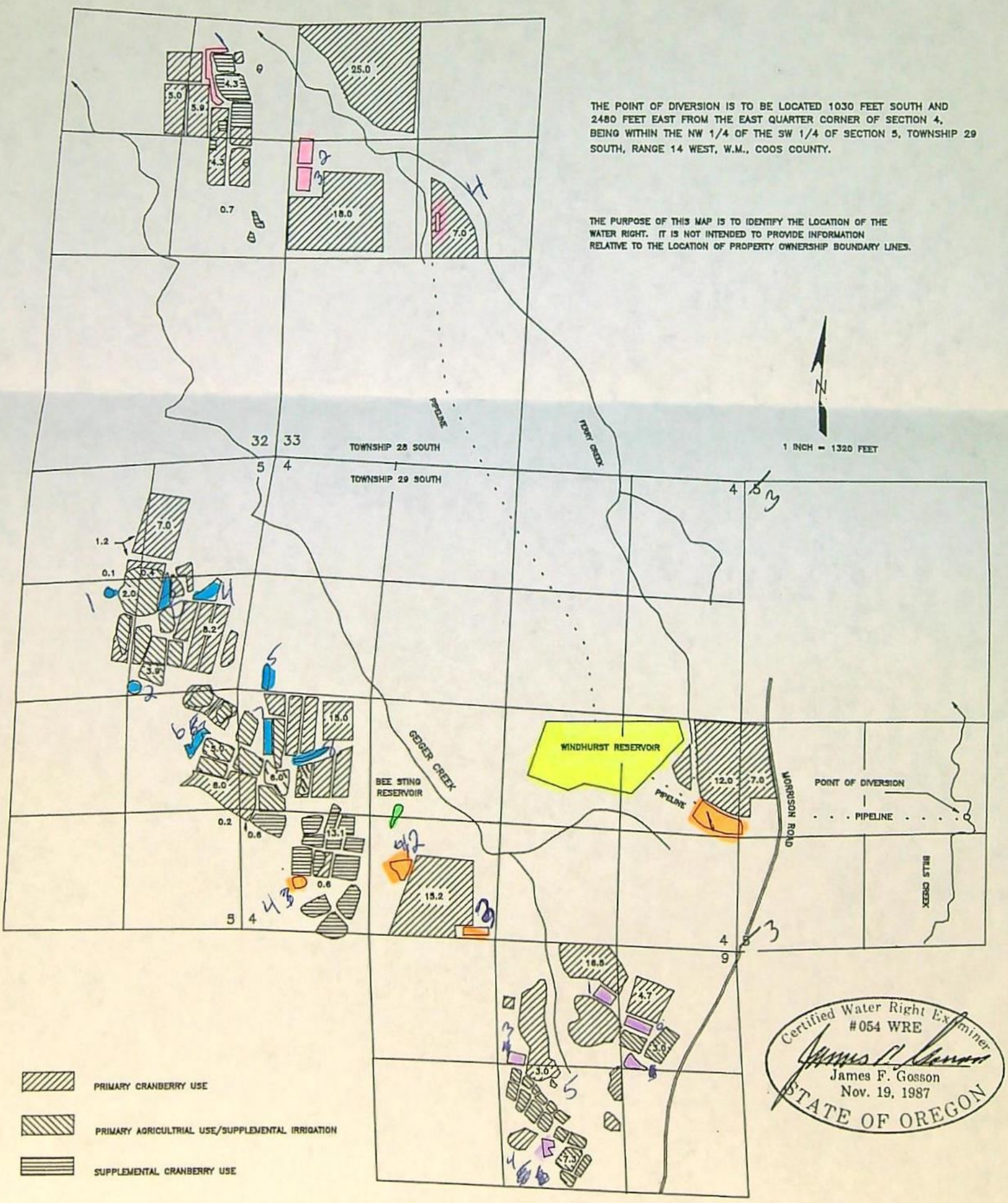
11/3/83

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

Working copy

APPLICATION MAP
IN THE NAME OF
WINDHURST ROAD SUB DISTRICT

SECTIONS 32 & 33, T 28 S, R 14 W, WM
AND
SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM

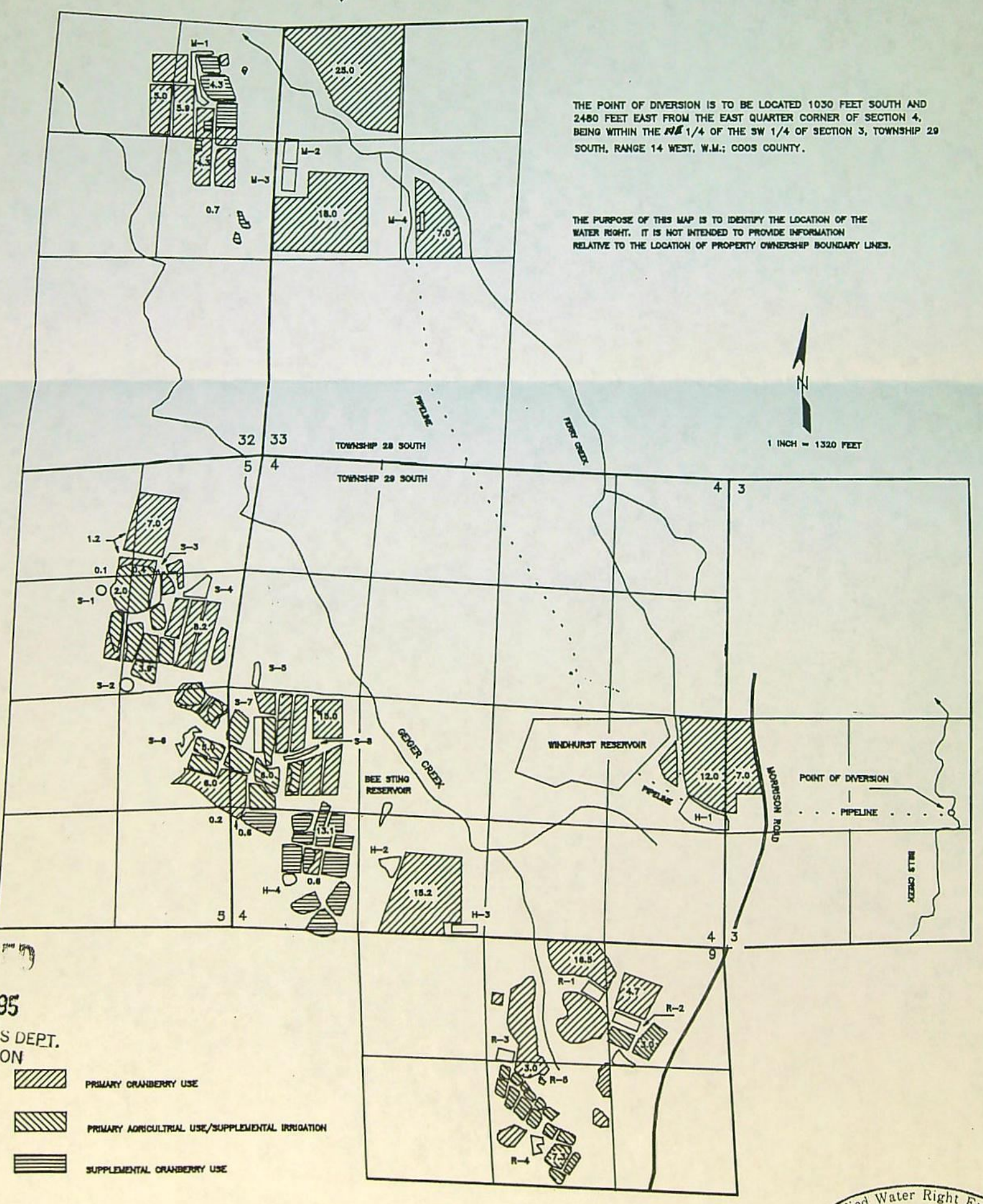


Certified Water Right Examiner
#054 WRE
James F. Gosson
Nov. 19, 1987
STATE OF OREGON

R-69708

APPLICATION MAP
IN THE NAME OF
WINDHURST ROAD SUB DISTRICT

SECTIONS 32 & 33, T 28 S, R 14 W, WM
AND
SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM



THE POINT OF DIVERSION IS TO BE LOCATED 1030 FEET SOUTH AND 2480 FEET EAST FROM THE EAST QUARTER CORNER OF SECTION 4, BEING WITHIN THE NE 1/4 OF THE SW 1/4 OF SECTION 3, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.; COOS COUNTY.

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 BOUNDARY LINES.

RECEIVED

OCT - 5 1995

WATER RESOURCES DEPT.
SALEM, OREGON

PRIMARY CRANBERRY USE

PRIMARY AGRICULTRIAL USE/SUPPLEMENTAL IRRIGATION

SUPPLEMENTAL CRANBERRY USE

Certified Water Right Examiner
#054 WRE
James F. Gosson
Nov. 19, 1987
STATE OF OREGON

file

Oregon

WATER
RESOURCES
DEPARTMENT

NOVEMBER 29, 1995

WINDHURST ROAD WATER CORPORATION
PO BOX 503
BANDON, OREGON 97411

Reference: File R-69708

Dear Applicant:

THIS IS NOT A PERMIT AND IS SUBJECT TO CHANGE AT NEXT PHASE OF PROCESS

This letter is to inform you of the potential limitations to your proposed use of water and to describe some of your options. Based on the information you have supplied, the Water Resources Department has reached the following conclusions:

Initial Review Determinations:

1. Your application is complete and not defective.

2. The proposed use is not prohibited by law or rule.

3. The storage of water for IRRIGATION AND AGRICULTURE (CRANBERRY OPERATIONS) **is allowed** under OAR 517, the South Coast Basin Program.

4. The storage of a cumulative total of 614.0 acre-feet, being in 23 different reservoirs, from Bill Creek for Cranberry Operations **is not available** August 1 through October 31.

5. Approved plans and specifications shall be submitted by the applicant to the Oregon Water Resources Department prior to storage of water in reservoirs which store more than 9.2 acre-feet and with dams greater than 10.0 feet in height.

Summary of Initial Determinations

The storage of a cumulative total of 614.0 acre-feet of water in 23 reservoirs from Bill Creek for Cranberry Operations from November 1 through July 31 of each year may be allowed.

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

Because of the Departments determination, your application can be moved to the next phase of the water rights application review process. However, due to **#4 & 5** above your application will likely be limited as summarized above.

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 application as described below.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a $50 processing charge per application.) To accomplish this you must notify the Department in writing by **DECEMBER 13, 1995**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

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

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

1. You may be required to measure the amount of water used and report that use annually.

2. You may be required to install fish screens at the diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

3. The priority date for this application is September 6, 1988 for 100.0 acre-feet and June 1, 1994 for 514.0 acre-feet.

4. Approved plans and specifications shall be submitted by the applicant to the Oregon Water Resources Department prior to storage of water in reservoirs which store more than 9.2 acre-feet and with dams greater than 10.0 feet in height.

If you have any questions:

Feel free to call me at (503) 378-8455 ext. 454 or 1 (800) 624-3199 if you have any questions. Please have your application number available if you call.

Sincerely,

Gary Holliday
Initial Reviewer

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

17 - WAB 160300
POU 160300

File Copy

Oregon

WATER
RESOURCES
DEPARTMENT

22 September, 1995

John Youngquist
827 SE Mosher Ave.
Roseburg OR 97470

RE: Windhurst Road Applications R69708 and 69654

Dear Mr. Youngquist:

As I had not yet received any indication from ODFW that they are withdrawing their protest against Mr. Scherer's applications, I contacted ODFW staff Rick Kruger at 229-6067, Ext. 437, who is filling in for Stephanie Burchfield while she's out on maternity leave.

According to Mr. Kruger, who discussed this with Reese Bender, the proposed project has changed dramatically since it was first applied for (9/88), from a major in-channel dam and "diversion " (34.8 cfs) to many small, off-channel reservoirs, a small (1-foot high) weir for a pump and an unknown (to ODFW) diversion rate. ODFW does not have a copy of the most recent application (6/94) and so does not have the specifics on the above revised project(s), but is very pleased with the switch to off-channel and the small pump diversion and is anxious to sign off on the proposal, once it sees the final proposal in writing and agrees on the specifics of the control structure and minimum bypass flow.

Mr. Kruger reports that you and Reese Bender met on site around October 1994, at which time you discussed and agreed upon conceptual matters only. At this meeting, Reese reports that the parties agreed on the location of the low weir but not on the specifics of the control structure. ODFW is waiting to receive some sort of written final design proposal/drawings. Mr. Kruger notes that since ODFW hasn't seen the latest application either, he would ask that you submit a complete package (new/revised application and final design proposal/drawings), showing/ describing the entire project and how it would function.

Mr. Kruger further noted that of particular concern is the maximum diversion rate of the pump facility and a "minimum flow" at the weir, below which the pump would not operate and no diversion would occur. He understood from Reese that ODFW and you agreed in concept to setting some minimum flow, but that you either did not discuss or agree upon an amount. Maximum diversion rate will be determined by the capacity of the pump. ODFW needs to see the specifics on these and come to agreement on the minimum flow amount before it can "sign off" and withdraw its protest.

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

I look forward to seeing this matter brought to a close, as I'm sure all the parties do. If you would be so kind as to provide me with a copy of the documentation you send to ODFW, I would appreciate it. I will expect to receive a copy of ODFW's approval and of its withdrawal at some later time.

Sincerely,

Weisha Mize
Administrative Law Judge

cc: John Drolet, Watermaster, Dist. 19
Steve Applegate, WRD, Salem
Rick Kruger, ODFW, Portland

256
T/M
8/29/95
8:30A

facsimile
TRANSMITTAL

to: Dick Bailey, Administrator
fax #: (503) 378 - 8130
re: Files No. 69654 & R 69708
date: August 28, 1995
pages: 1, including cover sheet.

Dear Mr. Bailey:

Thank you for your time spent with me last Friday, August 25, 1995. In answer to Mr. Munks' letter dated August 7, 1995, I would offer the following comments:

1. The material and letter were not available until August 22, 1995, because the CWRE was on vacation when the material arrived. This is the reason for the response this date.

2. The applicants are pursuing the necessary rights of way for the project. The easement from Rogge Forest Products is on file, the easements from the Coos County Highway Department, City of Bandon and Lowell & Mary Meyer are in progress. We hope the various easements can be obtained during September and October. In any event, water will not be conveyed across those lands until easements are obtained.

3. The Department is correct on the Point of Diversion location. The map will be modified to correctly show the Point of Diversion and all the reservoirs will be appropriately labeled as requested. We estimate the corrected map will be submitted no later than September 13, 1995.

Please contact either James F. Gosson or myself if you have any questions or if this proposed schedule is not satisfactory.

cc: James F. Gosson, CWRE
Ronnie O. Haga

From the desk of...

M. John Youngquist
Consultant

827 SE Mosher
Roseburg, Oregon 97470

(503) 672-5692
Fax: (503) 672-5692

Oregon

WATER
RESOURCES
DEPARTMENT

August 7, 1995

JAMES F GOSSON
580 S STATE ST
SUTHERLIN, OR 97479

RE: Windhurst Road SubDistrict applications #S-69654 and R-69708

Dear James Gosson,

The Water Resources Department is currently reviewing your application for water use. Preliminary review indicates the following items were not included with your application:

- A signed statement that you have written authorization or easement permitting access to lands involved in the proposed use, but owned by others. (The file has an easement from Rogge Forest Products but not from Coos County Highway Department, The City of Bandon, nor Lowell and Mary Meyer.)

- A map showing the place where water is to be used and the point where water will be diverted. The map must identify the township, range, section, and nearest quarter-quarters where the water will be diverted and used. (The map shows the point of diversion to be in the NE 1/4 SW 1/4, Section 3, but states that the point of diversion is in the NW 1/4 SW 1/4. Please clarify. Also, please label the individual reservoirs.)

In order to expedite the processing of your application, we request that you submit these items by August 28, 1995. We have enclosed a stamped envelope for your use.

Should you have any questions regarding your application or the required materials listed above, please call me personally at 1-800-624-3199 extension 256.

Sincerely,

Michael Munks
Completeness Team

enclosure

cc: general correspondence

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

John Youngquist 672-5692, Stephanie Birchfield 229-5969

Oregon

WATER
RESOURCES
DEPARTMENT

DRAFT DRAFT DRAFT DRAFT DRAFT

September 16, 1994

FAXED

WINDHURST ROAD WATER CORPORATION
PO BOX 503
BANDON, OR 97411

Reference: File R 69708

Hello:

Your application file was recently reviewed. Under separate cover I have enclosed our report of technical review. Before we can process your application further, you need to provide us with additional information, documentation, or fees.

Prior to issuance of the permit, we will need to receive total fees in the amount of $441; being an examination fee of 200.00, and a permit recording fee for the storage of 614 acre feet of $241. Since you have previously submitted $200, an additional amount of $241 is required.

In addition, please send the following:

a legal description of the property where you plan to use water (you may copy this from your deed, title insurance policy, or sales contract);

a copy of written authorization or easement permitting access to land not owned by you, the applicant;

a CRWE map which references the reservoirs described in the application (which are the Haga Reservoirs 1, 2, 3, 4 etc.).

You have a conflicting water right situation on the property involved in the application. This problem must be resolved before a permit could be issued.

After the file is complete and the deadline for objections to the technical review expires, staff will again review the file for objections and further process your application as soon as possible.

Please feel free to contact me if you have any questions and I will be happy to address any concerns you may have.

Sincerely,

Michael J. Mattick

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

DRAFT

Report Date: September 16, 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: DECEMBER 1, 199X

1. APPLICATION FILE NUMBER -R 69708

2. MINIMUM APPLICATION INFORMATION

Applicant name/address/county/phone:

WINDHURST ROAD WATER CORPORATION
PO BOX 503 503-347-3062
BANDON, OR 97411
COUNTY OF COOS

Date application received for filing and/or tentative date of priority: 9/ 6/1988 FOR 100 ACRE FEET, AND 6/1/94 FOR 491 ACRE FEET.

SOURCE: BILL CREEK, A TRIBUTARY OF BEAR CREEK

Purpose and/or use: STORAGE FOR PRIMARY CRANBERRY USE, PRIMARY AGRICULTURE USE, SUPPLEMENTAL IRRIGATION AND SUPPLEMENTAL CRANBERRY USE.

QUNATITY: 614 ACRE FEET IN 23 RESERVOIRS:

WINDHURST RESERVOIR	470.0 ACRE FEET
BEE STING RESERVOIR	23.0 ACRE FEET
MANICKE 1	9.1 ACRE FEET
M2	9.1 ACRE FEET
M3	9.1 ACRE FEET
M4	2.7 ACRE FEET
RICHERT 1	5.6 ACRE FEET
R2	5.0 ACRE FEET
R3	9.1 ACRE FEET
R4	5.6 ACRE FEET
R5	5.6 ACRE FEET
HAGA 1	9.1 ACRE FEET
H2	9.1 ACRE FEET
H3	2.9 ACRE FEET
H4	6.0 ACRE FEET

DRAFT

SCHERER 1	1.4 ACRE FEET
S2	1.4 ACRE FEET
S3	5.6 ACRE FEET
S4	7.0 ACRE FEET
S5	1.5 ACRE FEET
S6	4.2 ACRE FEET
S7	7.7 ACRE FEET
S8	4.2 ACRE FEET

Point of Diversion Location:
NE 1/4 SW 1/4, SECTION 3, T 29 S, R 14 W, W.M.; 1030 FEET SOUTH AND 2480 FEET EAST FROM E 1/4 CORNER OF SECTION 4.

Reservoir locations:

MANICKE X		NE 1/4 NW 1/4
	SECTION 32	
MX		NW 1/4 NW 1/4
		SW 1/4 NW 1/4
MX		SW 1/4 NW 1/4
MX		SE 1/4 NW 1/4
	SECTION 33	
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.		
HAGA X		NW 1/4 SW 1/4
	SECTION 3	
		NE 1/4 SE 1/4
HX		SW 1/4 SW 1/4
HX		SE 1/4 SW 1/4
HX		SE 1/4 SW 1/4
WINDHURST RESERVOIR		NE 1/4 SE 1/4
		NW 1/4 SE 1/4
BEE STING RESERVOIR		NE 1/4 SW 1/4
		SE 1/4 SW 1/4
SCHERER X		SW 1/4 NW 1/4
SX		NW 1/4 SW 1/4
SX		NW 1/4 SW 1/4
	SECTION 4	
SX		NE 1/4 NE 1/4
		SE 1/4 NE 1/4
SX		SE 1/4 NE 1/4
SX		SE 1/4 NE 1/4
SX		SW 1/4 NE 1/4
SX		NE 1/4 SE 1/4
	SECTION 5	

DRAFT

RICHERT X	NE 1/4 NE 1/4
RX	NE 1/4 NE 1/4
RX	NW 1/4 NE 1/4
RX	NW 1/4 NE 1/4
RX	SW 1/4 NE 1/4

SECTION 9
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

CONFLICTS WITH OTHER WATER RIGHTS:

There are no existing rights from this point of diversion.

There are existing water rights appurtenant to the lands described in the application. THE UNDERLYING RIGHTS MUST BE TRANSFERRED OR CANCELLED.

SURFACE WATER AVAILABILITY

Water is likely available in excess of needs for all existing rights and scenic waterway needs 50% of the time during each monthly period proposed by the technical review.

Water availability tables are available in the application file and may be reviewed in the office of the Water Resources Department in Salem.

REPORT CONCLUSIONS:

Based on the Department's review of water availability and Oregon Administrative Rules, water in the amount of 614 ACRE FEET is likely available for STORAGE DURING 8 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.

DRAFT

PROPOSED PERMIT CONDITIONS

Application: R 69708

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. Period of allowed use: STORAGE BETWEEN NOVEMBER 1 AND JUNE 30.

3. Volume of use: 614 ACRE FEET IN 23 RESERVOIRS.

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

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

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.

DRAFT

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; the proposed maximum depth of water in feet; the maximum height of the dam in feet:

	AC FT	AREA	MAX DEPTH	MAX HT
WINDHURST RESERVOIR	470.0	23	24	28
BEE STING RESERVOIR	23.0	2	23	25
MANICKE 1	9.1	1.1	11.5	9.9
M2	9.1	1.0	12	9.9
M3	9.1	1.0	12	9.9
M4	2.7	0.3	10.5	9.9
RICHERT 1	5.6	0.9	10	6.0
R2	9.1	1.0	10	6.0
R3	9.1	0.7	12	6.0
R4	5.6	0.7	11	6.0
R5	5.6	0.6	13	6.0
HAGA 1	9.1	2.6	9	7.0
H2	5.0	0.8	10	7.0
H3	2.9	0.5	10	7.0
H4	6.0	0.6	13	7.0
SCHERER 1	1.4	0.4	10	4.0
S2	1.4	0.4	10	4.0
S3	5.6	0.9	10	4.0
S4	7.0	1.0	10	4.0
S5	1.5	0.5	8	4.0
S6	4.2	0.7	8	4.0
S7	7.7	1.0	11	4.0
S8	4.2	0.5	12	4.0

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.

Oregon

WATER
RESOURCES
DEPARTMENT

August 17, 1995

Wayne Scherer
Windhurst Road Water Corporation
PO Box 503
Bandon, OR 97411

RE: Application # R-69708

Dear Sirs,

Excess fees paid on application #R-69708 is $1,259.00 and is refundable to you. I have enclosed a check for $1,259.00

Should you have any questions regarding this matter, please call me personally at 1-800-624-3199 extension 256.

Sincerely,

Dick Bailey, Manager
Completeness Team

enclosure

cc: general correspondence

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

1-10-94 WEISHA SUGGESTED W/C CONTACT J. YOUNGQUIST FOR UPDATE KD

TECHNICAL REVIEW CHECKLIST

FORM-71393

(1) Application: R-69708

(2) Review Date: 9/14/94 MM No plant & well

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 Completeness FEES, NO PLANS OR SPECS ON DAM PROJECT COPY of DEEDS, ACCESS AUTHOS EASEMENTS

S Land Use

N/A GW Interference (if potential interference with surface water, see results of water availability analysis)

U Conflicts w/EXISTING CRANBERRY OPERATION RIGHTS SEE MAPS → CERT. PROVISIONS

S Water Availability 160300...

(3) N/A 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.

(4) S No oath is required because application was filed before June 5, 1992.

(5) U Application fees:

Examination fee:	$ 200.00
Recording fee:	$ 241
TOTAL REQUIRED	$ 441
TOTAL SUBMITTED	$ 200.00
AMOUNT DUE prior to issuance of permit	$ 241
AMOUNT OVERPAID refund due applicant	$

100 + .25 × 564

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

(7) S MAP: ✓ Prepared by a CWRE
___ Exempt under OAR 690-14-150(3)
___ A map or drawing included (non-CWRE)
___ No map or drawing in file

(8) N/A A CWRE map is not required for applications filed before November 9, 1987.

(9) U A written copy of the legal description of the property on which the water is to be used.

(10) U A copy of written authorization, contract or easement permitting access to the land or reservoir not owned by the applicant.

(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. CRANBERRY OPERATIONS = temp control, flood harvest, irrigation

(13) S IRR & ACR. use(s) is/are classified uses(s) under the S. COAST Basin Program, OAR 690 - 517-001 (8)

(14) U The application, map and supporting data are complete and free of defects.

Land Use Compatibility:

(15) As expressed by the Planning Department of Douglas Co

(16) NA 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 _____).

(17) ___ The land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals which have been obtained.

(18) S 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 ground water applications:

(20) N/A A copy of the constructor's log, if available, for any well already constructed, or required information regarding actual or anticipated construction.

(21) N/A The report from groundwater section has been received.

For reservoir applications:

(22) U Plans, specifications and supporting information for the dam and impoundment area.

NOTHING IN FILES SUGGESTS EVER RECEIVING ANY

CONCURRED by JOHN FACK PE

CT. # 222

STATE OF OREGON INTEROFFICE MEMO

TO: MARIE LICARI, FISCAL DATE: 8/8/95

FROM: Michael Munks
Authorized Examiner

SUBJECT: Request for Refund Check

Please refund $ 1,259 to ~~Windhurst Road Water Corporation~~ Wayne R. Scherer
file no. R-69708, receipt no. 112726. These funds are refunded due to:

_____	Application rejected
_____	Application withdrawn
X	Excess fees collected for application
_____	File closed
_____	Other: _____
_____	Protest Filing Fees

0102C

$42004

AUG 08 1995

Complete

COMPLETENESS DETERMINATION CHECKLIST

Application #	Review Date	Reviewer Initials
R - 69708	8/7/95	MICHAEL

A checkmark (✓) indicates that the item is incomplete or defective.

Refund due

614 Ac. Ft.
564/4 = $141
$100
$241

1,500
− 241
$1,259 − Refund

_____ 1. Examination fees.
_____ 2. Name and address of the applicant, and title if applicable.
_____ 3. Source of water.
_____ 4. Use of water.
_____ 5. Amount of water.
_____ 6. Location & description of delivery system.
_____ 7. Name(s) and address(es) of the owners of any lands involved, but not owned by the applicant.
_____ 8. A statement declaring the existence of written authorization or easement permitting access to lands involved, but not owned by the applicant.
_____ 9. Proposed dates of beginning and completion of construction, and complete application of water.
_____ 10. If for **municipal use,** the present population to be served and expected future water requirements.
_____ 11. If for **mining use,** the type of mines and methods of supplying & utilizing the water.
_____ 12. If for a **reservoir:**
- ____ The height of the dam and the storage capacity.
- ____ The area submerged and the maximum depth.
- ____ The construction method (earthfill, concrete, flashboard, etc.).
- ____ A description of the outlet conduit and spillway.

_____ 13. If for **groundwater,** the horizontal distance from the well to the nearest surface water source (if within one mile), and the difference in land surface elevation between them.
_____ 14. If the application was made under **HB 2107:**
- ____ Name and address of each adjacent property owner and verification that each owner has been mailed a copy of the completed notice.
- ____ A description of the proposed water used and related project, the condition it will address, and the benefits that are expected to result from the project.
- ____ The number of reservoirs per application is appropriate as per OAR 690-11-049 (3)(b)

_____ 15. An oath that the application information is true and correct.
_____ 16. The signature of the applicant(s).
_____ 17. A satisfactory map of the proposed POD & POU.
_____ 18. A Land Use Information Form or receipt signed by appropriate planning official.

TECHNICAL REVIEW CHECKLIST

11/4/94

1. Application: _____

2. Review Date: _____

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

SUMMARY	
_____	Land Use
NA/yes/no	Substantial SW interference w/GW (if yes, see results of surface water availability analysis)
_____	Conflicts Copy Plat card(s), copy maps of other affected wr's. Staple to this sheet.
_____	Water Availability (1603) (Water Availability Sub-basin#)
_____	The application, map and supporting data are complete and free of defects.
yes/NA	A TMDL letter has been received for this source or tributary. If yes, the period of use has been adjusted.

3. _____ 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. _____ Application fees:

FEE NOTES:

Examination fee: $
Recording fee: $_____
TOTAL REQUIRED $
TOTAL SUBMITTED $
AMOUNT DUE prior to issuance of permit $_____
AMOUNT OVERPAID refund due applicant $_____

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

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

9. _____ A copy of written authorization, contract or easement permitting access to the land or reservoir not owned by the applicant.

10. _____ No statement of ownership was required for applications filed before August, 1990.

11. _____ The proposed use is not restricted or prohibited by statute.

12. _____ 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. 3 One or more of the use(s) are allowed under the basin program; OAR 690 - 517-001(6). LB initials

Uses applied for: Reservoir

Discussion: NOTE 690-517-001(7) applies to Geiger Creek

690-517-004(1) Applies.

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. _____ 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. _____ The land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals which have been obtained.

17. _____ 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. _____ 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)

6/2/94 mm

Work sheet for Windhurst Road Water Corp

R 69708

S 69654

R 69708 as originaly filed would store 100 ac ft ✓

as amended 6/1/94 " " 470 ac ft ✓

on 6/1/94 we also received 5 additional applications:

22 little Res on map, 22 listed in 5 applications which are which?

Manicke:	M 1	9.1 ac ft	somewhere in sec 3, 4, 33, 32
	M 2	9.1 " "	Σ 30 ac ft
	M 3	9.1 " "	
	M 4	2.7 " "	
Rickert:	R 1	5.6 ac ft	somewhere in sec 3, 4 & 9
	R 2	9.1 " "	Σ 35 ac ft
	R 3	9.1 " "	
	R 4	5.6 " "	
	R 5	5.6 " "	
Haga:	H 1	9.1 " "	somewhere in sec 3 & 4
	H 2	5.0 " "	Σ 23 ac ft
	H 3	2.9 " "	
	H 4	6.0 " "	
Bee Sting Res.		23.0 " "	on map NE & SE, SW
Scherer:	S 1	1.4	somewhere in sec 3, 4 & 5
	S 2	1.4	Σ 33 ac ft
	S 3	5.6	
	S 4	7.0	
	S 5	1.5	
	S 6	4.2	
	S 7	7.7	
	S 8	4.2	

total Ac Ft in 5 apps = 144. Is this in addition to 470 in amended R 69708? to equal 614 ac ft. yes

100 wt Pdate 9/6/88 ? yes

514 wt Pdate 6/1/94 ? yes

Total = 470 + 121 + 23 = 614 ac ft.

what I need:

Map that Identifies which Reservoirs are which M1, M2 etc

# of Primary acres in SW NE sec 5, correctly Id sec 3 (not sec 5) on map

Tabulation of various acres in each 1/4 1/4 for 69654 by 1/4 1/4 sec in order

I will place all Reservoir Apps in R 69708 so there are 6 Res. Apps Amending R 69708

I called James Gosser 6/2/94 and asked for the above. He will get it to me.

69654 amendment says 162.4 cranberry
27.7 ag
18.1 supp cranberry

9/9/94 Phone call from John Youngquist - Stephanie Birchfield of ODFW will review the site on Sept 22 nd.
John will get new map ASAP
" storage season should not start Nov 1.
I told him I'd try to get TR done b/for 22 nd for their Joint Review " MM (for Re only)

From: FRENCH "Dwight French, x268" 16-SEP-1994 12:47
To: Mattick
CC: French
Subj: TR for Youngquist

I don't like the idea of doing a TR knowing that we will not be sending it out. The key words in Barry's message was "Martha proprosed this..." So, after the appointment is set, I suppose you should prepare a TR as if the plans and specs have been approved.

The tough part is explaining that "This is how the TR would look if we were to issue one today." As Mr. Youngquist has found out, our processing standards can, and will, change.

I'll print out my copy of this message and bring it to Barry's and Martha's attention if I get the appropriate opportunity.

Dwight

----- Begin message from MATTICK 16-Sep-94

From: MATTICK "Michael Mattick" 16-SEP-1994 12:18
To: French
CC:
Subj: I'm to do a TR but not count it. ?

----- Begin message from NORRIS 16-Sep-94

From: NORRIS "Barry Norris" 16-SEP-1994 08:42
To: Mattick
CC:
Subj: Bandon Water Control District (Winhurst Rd Project?)

John Youngquist called this morning in a less than pleasant mood. As you are aware, he was wondering about the plans and spec requirement. The bottom line is a meeting with you, ODF&W, John, and others? to make a preliminary pass through the technicial review process, icluding a water availability analysis. John will call you next week to set up the meeting. Martha proposed this as a solution to the issue.

Please give me a call to discuss.

Barry.

----- End forwarded message

----- End forwarded message

INTERNAL MANAGEMENT DIRECTIVE

To: Caseworkers

cc: Barry Norris, John Falk

From: Dwight French DF

Date: September 14, 1994

Re: Processing of Reservoir Applications - Plans and Specs.

The current interpretation of 690-11-040 indicates that we are not to issue Technical Reviews without approved plans and specifications on reservoir applications where the dam is 10.0 feet or more in height and the reservoir impounds 9.2 acre-feet or more.

This is in accordance with OAR Chapter 690, Division 20.

M:\memos\0014

COPY CHECK-OFF SHEET FOR TECHNICAL REVIEWS

CC: FILE # R-69768

WATERWATCH

ODF&W - County: Douglas - also Al Mirati and/or Stephanie Birchfield

WATERMASTER #: 15

REGIONAL MANAGER: SW

CWRE: James F. Gosson

DEQ

OREGON ASSOCIATION OF NURSERYMEN INC.

KEN STAHR

OTHER ADDRESSES: Weisha Mize

John Youngquist

CASEWORKER (initials/date) MM 9/14/04 ORIGINAL TO APPLICANT 6/28/94

Oregon

WATER
RESOURCES
DEPARTMENT

February 14, 1994

John Youngquist
Water Resources Consultant
827 SE Mosher Ave.
Roseburg, Oregon 97470

REFERENCE: R-69708 and 69654

Dear Mr. Youngquist,

At your request, I am delivering to you both original applications, an additional data sheet for application 69654 and three maps for correction and completion. In order to maintain their tentative priority dates the applications, supporting data sheet and maps must be returned to this office by June 1, 1994.

Sincerely,

MICHAEL J. MATTICK
Water Rights Specialist

MJM:

enclosures: applications, data sheet and maps

cc: Wayne R. Sherer

3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

Oregon

WATER
RESOURCES
DEPARTMENT

11 August, 1993

M. John Youngquist
Water Resources Consultant
827 SE Mosher Ave.
Roseburg OR 97470

RE: Applications R69708 and 69654, Windhurst Road Water Company

Dear Mr. Youngquist:

Thank you for your letter of August 6, 1993, updating me on the progress of the above-referenced applications. I have forwarded a copy of your letter and my response to the Water Rights Section staff as the application files are in their possession and they will want to make the necessary notations to the files when the applications are returned to Mr. Scherer for correction.

Let us hope, given the amount of work the parties have put into this, that the outcome will be positive and that the end result will be ODFW's withdrawal of their protests against these applications. Thanks again for continuing to keep me informed.

Sincerely,

Weisha Mize

Weisha Mize
ALJ

cc: Steve Brown
Reed Marbut

3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

M. JOHN YOUNGQUIST
WATER RESOURCES CONSULTANT

RECEIVED
AUG - 6 1993
WATER RESOURCES DEPT.
SALEM, OREGON

RESEARCH
PLANNING
PERMITS/LICENSING
PROJECT MANAGEMENT

827 SE MOSHER AVE.
ROSEBURG, OR 97470
PH: (503) 672-5692

August 3, 1993

Weisha Mize, Hearings Referee
Oregon Water Resources Department
3850 Portland Road, NE
Salem, Oregon 97310

RE: Windhurst Road Applications 69708 & 69654

Dear Ms. Mize:

I am writing on behalf of the Windhurst Road group with a progress report and a request. Wayne Scherer met with Steffanie Birchfield and Al Mirati last month. They jointly looked at the proposed off channel reservoir development. We need to take the next step now and submit a corrected application describing the full development for Oregon Department of Fish and Wildlife's review. I believe we now have an acceptable project. At least the concept was well received.

The request consists of returning the pending applications to Wayne Scherer for correction. I estimate the Engineer will need 60 days to review the material and make the necessary changes. This will also give us enough time to review the project with the local biologist and Ms. Birchfield.

Thank you for all your patience. I believe we can see the light at the end of the tunnel. Please contact me if you have any questions.

Yours truly,

John

M. John Youngquist

M. JOHN YOUNGQUIST
WATER RESOURCES CONSULTANT

S. Brown
FYI

RESEARCH
PLANNING
PERMITS/LICENSING
PROJECT MANAGEMENT

827 SE MOSHER AVE.
ROSEBURG, OR 97470
PH: (503) 672-5692

REC
FEB 10 1993
WATER RESOURCES DEPT
SALEM, OREGON

February 8, 1993

Oregon Water Resources Department
3850 Portland Road, NE
Salem, Oregon 97310

Attention: Weisha Mize, Hearings Referee

RE: Status Report, Applications R-69708 & 69654

Dear Ms. Mize:

I am responding to your letter of January 29, 1993, on behalf of Wayne Scherer and the Windhurst Road Water Corporation. There have been several developments since the last report submitted in May, 1992.

First, the cranberry growers in the Bandon area are forming a water control district to allow participants to better develop the water resources in the Bandon area. The Windhurst Road Water Corporation will become a sub-district to the primary district. This will better allow the development and distribution of the water under the above referenced applications.

Second, the engineering for the "off channel" storage of water from Bill Creek is ongoing. Since May, a topographic map has been developed and the storage site has been selected. The engineer is now finalizing the initial design of the reservoir, preparing a cost estimate and completing the pipeline location proposal. Once these activities are complete the applications will be modified accordingly and submitted for approval.

Third, there have been discussions with the City of Bandon and Oregon Department of Fish and Wildlife (ODFW). The city manager was informed of the off channel storage from Bill Creek during a discussion Thursday, February 4, 1993. Since the reservoir will be located within the boundaries of Bandon's watershed, care will be given not to affect the City's supply.

The ODFW has assigned Al Mirati to coordinate cranberry farmer's activities within the Bandon area. We will be contacting Mr. Mirati within a month to review the diversion works from Bill Creek and location of the proposed reservoir.

Finally, Howard Daggett has made a field inspection of the site and offered suggestions on reservoir construction. Howard visited the site on August 20, 1993, after which the engineer completed the topographic mapping. The aerials had been previously flown, however, the ground control was not complete.

This project is progressing very well at this time. We anticipate requesting the applications be returned in the near future for correction.

Please contact me if you have any questions, or comments.

Yours truly,

John Youngquist

cc: Wayne Scherer
John Drolet

MATTICK

September 25, 1991

Weisha Mize
Hearings Referee
Water Resources Department
3850 Portland Road N.E.
Salem, Oregon, 97310

Dear Weisha,

Another update on our applications R-69708 and R-69654, although a little late.

We have heard absolutely nothing from the city on the watershed. However, a measuring device is now in place on our farm, just above our pumping station. John Drolet informs me that the preliminary work is completed and another measuring device will be operating in about thirty days at a point near where Geiger Creek meets Ferry Creek. I'm positive that data taken at these sites will show that there is a definite water need problem, not only for the future of the city but we cranberry growers on these two creeks.

As indicated in the last update, we have instructed our water right examiner, Jim Gossen, we wish to go ahead on our applications. Jim has been on vacation, but we will be spending some time with him next week when he will be with us on an educational tour for the Water Resources Department Commission of cranberry farms October 3.

We will also be starting our cranberry harvest next week. Our operation will take our harvest into early November, then I have a week long Ocean Spray Board meeting in Massachusetts, followed closely by Thanksgiving, so I seriously doubt I personally will have time to make major contributions towards our project.

Thanks again for your patience and understanding.

Sincerely,
Wayne
Wayne R. Scherer

cc: Greg Robart
John Drolet
Jim Gossen

July 2, 1991 Applegate

Weisha Mize
Hearings Referee
Water Resources Department
3850 Portland Road N.E.
Salem, Oregon, 97310

JUL 05 1991
WATER RESOURCES DEPT.
SALEM, OREGON

Dear Weisha,

There are several things that have happened since my last update on our applications R-69708 and R-69654, but I'm unsure how they may affect our applications.

I had a telephone call from Steve Brown of your office inquiring about the status of our application, and I informed him we were waiting to see what direction the City of Bandon was headed. Steve wondered why I couldn't get the city to move, and I suggested to him that bureaucracy moves at its own pace. At this point I'm sure he indicated he would write a letter to the city inquiring about their intentions with a copy to be sent to us. As of today, we have not received a copy of any letter.

One of our group told me that very recently the ODFW had filed for a minimum stream flow on Ferry Creek - the city's water supply. I also understand our city manager, Ben McMakin, is quite upset about this new developement. I have not spoken to Ben personally, nor have I seen any documents verifying that the ODFW has made any application, although our Oregon Cranberry Farmers Alliance is on your departments mailing list.

We have also instructed our water rights examiner to review our applications, and we hope to be able to procede with them in the near future.

In addition, we have been heavily involved in several other water possibilities with our Farmers Alliance to supply the necessary water to sustain and allow expansion of our cranberry industry here on the South Coast. We hope that one or more of these projects may come to fruitation.

I am also sending along the Ferry Creek Dam proposal that I mentioned to you last year. I would appreciate your returning it to me when you have finished reviewing it.

Thanks again for your time and understanding.

Sincerely,
Wayne
Wayne R. Scherer

cc: Greg Robart
John Drolet

STEVE APPLE

April 15, 1991 4/25/91 SC

Weisha Mize
Hearings Referee
Water Resources Department
3850 Portland Rd. N.E.
Salem, Oregon, 97310

RECEIVED
APR 17 1991
WATER RESOURCES DEPT
SALEM, OREGON

Copies to each file please Tks

Dear Weisha,

On an update report on applications R-69708 and R-69654, I am disappointed in not being able to report significant progress, but at the same time pleased to report some progress is being made in other areas that may have a large impact on everything.

Although I have not heard from Ben McMakin, Bandon City Manager, directly, other sources have indicated several things have happened. Ben and the acting Water Master, Gary Ball, have met several times and looked at sites to locate gaging stations, one of which will probably be installed at or nearby my pumping station point of diversion, and possible dam locations for which the city has long standing permits. Gary and I have also looked at three possible dam sites on Geiger Creek that could be built on a joint effort with our cranberry group and the city. Additionally, Bandon has appropriated $12,000 to help fund reestablishment and maintaining the Water Master's office in Coquille. The Water Master's office would again be working at building a real data base for creek flows in this area, including Geiger Creek and Bill's Creek, that our group, other cranberry growers and other water users would be able to access for real numbers to use in our long running battles with ODFW on water rights.in this area. Obviously, all these pieces are coming together slowly, but I can honestly say that we are making progress.

It is unfortunate that the ODFW has taken a position that would ultimately close down this state to any kind of economic growth or expansion.

If any information passes through your office that would be of interest or help to us, we would appreciate hearing from you. Until my update in June,

Best Regards,
Wayne
Wayne R. Scherer

Randy Moore
John Drolet
Gary Ball
Greg Robart

R-69708

November 4, 1990

RECEIVED
NOV - 7 1990
WATER RESOURCES DEPT.
SALEM, OREGON

Ben McMakin
City Manager
City of Bandon
Bandon, Oregon

Dear Ben,

Now that we have finished harvest, and the multitude of cranberry activities of summer have tapered off, our group would like to pursue the modification of the Oregon Water Resources Department closure order on Geiger Creek to allow us to add water storage sites within the watershed, and replenish them with water from geiger creek during the wet winter months.

Enclosed you will find a guadrangle map showing the approximate limits of the Ferry and Geiger Creek watersheds, the locations of possible water storage sites, and the farms that would be served by the stored water. There is also potential for storage at each of the farms.

We request permission to build storage at the different locations for a total of 200 acre feet of water, with the amount stored at each location to be determined after initial approval is granted, and permission to supply water to these sites as the water is available, especially during the heavy rainfall months.

We realize that you and the city council have been very busy the last several months with a variety of city problems, but hope this matter can reach a satisfactory agreement very soon.

The Oregon Water Resources Department has been very patient with us, waiting to hear what the city will allow us to do before we decide whether or not we will pursue water right applications that we have on Bills Creek.

I will be out of town on Ocean Spray business from November 11 thru November 25, but Fred Richert and Ron Haga will be in the area should you need additional information.

Thank you for your assistance and support.

Sincerely
Wayne
Wayne R. Scherer
Windhurst Road Water Corp.

cc: Jim Gossen

RECEIVED
DEC 13 1990
WATER RESOURCES DEPT.
SALEM, OREGON

December 12, 1990

Weisha Mize
Hearings Referee
Water Resources Dept.
3850 Portland Road N.E.
Salem, Oregon, 97310

Re: Applications R69708, 69654

Dear Weisha,

At the Bandon City Council meeting last week a Geiger Creek Study Team was formed to review several issues within the watershed, including our request for a modification of the closure order.

Last weekend, several of these people made a preliminary inspection of the area of interest. At a meeting last evening, Pat Watson and Lee Sutton of the City Council; Ben McMakin, City Manager; Ron Haga, Fred Richert, and myself met to review and explain our situation and circumstances to date.

We will spend time on a coming weekend together in the area looking at possible storage sites. Ron, Fred and I feel that our proposal was well received, and that in the near future wecwill be asking for assistance to do whatever is necessary to modify the closure order to allow for storage and winter pumping from Geiger Creek.

Additionally, we will be meeting with Gary Ball, W.R.D.; and Reese Bender, O.D.F.W.; next Tuesday as part of the Oregon Cranberry Farmers Alliance. The purpose of this meeting is to establish goals agreeable to both O.D.F.W. and O.C.F.A. concerning creeks and streams used by our cranberry industry, and how we can achieve those goals. Obviously, the outcome of this meeting may have significant impact on our individual case.

I will mark my calender to provide you with a status update about February 14. I hope you have a Happy Holiday Season.

Sincerely,

Wayne

Wayne R. Scherer

cc: Jake Szramek
Greg Robard
Ben McMakin
Jim Gossen

&200X

NEIL GOLDSCHMIDT
GOVERNOR

Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310 PHONE 378-3066

November 7, 1990

Wayne Scherer
Windhurst Road Water Corp.
PO Box 503
Bandon, OR 97411

RE: Applications R69708, 69654

Dear Wayne:

Thank you for your status update, received this date. I have forwarded a copy to the permits and applications section of the Department for their files. Mike Mattick has taken over for Jake Szramek, who has moved to other duties in the Department.

I look forward to hearing from you again in December.

Sincerely,

Weisha Mize

Weisha Mize
Hearings Referee

cc: Mike Mattick w/ attachment

November 4,1990

RECEIVED
NOV - 7 1990
WATER RESOURCES DEPT.
SALEM, OREGON

Ben McMakin
City Manager
City of Bandon
Bandon, Oregon

Dear Ben,

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I will be out of town on Ocean Spray business from November 11 thru November 25, but Fred Richert and Ron Haga will be in the area should you need additional information.

Thank you for your assistance and support.

Sincerely
Wayne
Wayne R. Scherer
Windhurst Road Water Corp.

cc: Jim Gossen

WEISHA -

I HAD HOPED TO BE ABLE TO SEND MY COPY OF THE DAM PROPOSAL FOR FERRY/GEIGER CREEK ALONG ALSO, BUT I LOANED IT OUT AND IT HASN'T BEEN RETURNED.

I MARKED MY CALENDER FOR AN UPDATE IN MID-DECEMBER.

Wayne

NEIL GOLDSCHMIDT
GOVERNOR

Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310 PHONE 3783066

November 5, 1990

Wayne Scherer
Windhurst Road Water Corp.
PO Box 503
Bandon, OR 97411

RE: APPLICATIONS R69708, 69654

Dear Wayne" As you may recall, an order was entered August 24th postponing indefinitely the postponing of the briefing schedule and hearing in this matter, and directing you to continue to file status reports every other month.

I have received no further status reports since that order was entered. Please provide a status update no later than Nov. 15, and note future filing times on your calendar.

Sincerely,

Weisha Mize
Hearings Referee

cc: Jake Szramek
Greg Robart

JAR July 25, 1990

Weisha Mize
Hearings Referee
Water Resources Department
3850 Portland Rd. N.E.
Salem. Oregon, 97310

RECEIVED
JUL 27 1990
WATER RESOURCES DEPT.
SALEM, OREGON

Dear Weisha,

Many things have taken place since my letter in May, and by giving you a brief summary, I hope I can lead to an understandable idea of where our applications, #R69708 and 69654 stand.

As you are aware, the problem with water right applications and the ODFW requests for their denials has escalated rapidly. Because of water related problems and property tax problems the cranberry farmers formed the Oregon Cranberry Farmers Alliance. I have been put in the position of Chairman, Water Committee, overseeing all water related issues, and quite frankly have not taken the time to press for a commitment by the city to modify the Geiger Creek closure order.

We have however, made great strides in opening constructive communications between WRD, ODFW, and ourselves for the benefit of a large number of our growers. As I'm sure you are aware, a joint meeting with Bill Young, WRD; Randy Fisher, ODFW; and our growers resulted in Gary Ball, WRD, and Reese Bender, ODFW, being assigned to work directly with us to resolve our problem areas, and we are now beginning to see the fruits of our labor. As mentioned earlier, this has taken an unusually large part of time I don't really have time to spare. I'm more confident as time goes by that it will not be a wasted effort.

I visited with Ben McMakin, Bandon City Manager, July 23, and was able to obtain the following information. The first priority of the city is to solve the sewer system problem, and that must be completed to the DEQ's satisfaction by the first of 1991, and at a cost near $1,000,000 which the taxpayers haven't approved. Consequently, even though Tucson Meyer has completed his study and given his report to the City Council, it has been shelved temporarily because of its cost - about $8,000,000, and the sewer problem. Two important issues surfaced in the future dam study. 1. agricultural useage of the water is a cornerstone in obtaining grant funds to offset city expenses, and more importantly, 2. at this point the ODFW wants the city to cover the cost of removing the old and building a new fish hatchery at the dam site with about $2,000,000 the city doesn't have or expect to be able to obtain. There are a number of other interesting items that Tucson's study uncovered, and if you are interested in a copy, I will try to get you one.

Ben stated that although the dam project was set back at this time, if our water district would provide him with a location and storage capacity for our proposed off-stream storage, he would take it to the City Council, and with their approval, go ahead with a

modification of the closure order. If necessary, he offered to submit a letter to you stating that we are working together on this project.

And now the real cruncher. Ben said that Tucson's study uncovered that the city has a very early water right (1913?) allowing them 5 CFS out of Geiger Creek at my pumping station if they should ever need it, and IF the city doesn't build this dam, and IF they need the water, they will take it. Consequently, our application to pump water from Bills Creek becomes increasingly critical to us.

Although this is sketchy at best, I'm sure you can understand our situation and let these applications continue in their present "holding pattern".

Thank you for your time and consideration. If you have any questions, don't hesitate to contact me.

Wayne

Wayne R. Scherer
Windhurst Road Water Corp
P.O. Box 503
Bandon, Oregon, 97411

CC: Jake Szramek
Greg Robart

NEIL GOLDSCHMIDT
GOVERNOR

Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310 PHONE 378-3066

July 13, 1990

Wayne Scherer
Windhurst Road Water Corp.
PO Box 503
Bandon, OR 97411

RE: Request for Status Update, Applications R69708, 69654

Dear Wayne:

You last wrote in May indicating that a special city council meeting was scheduled for May 15 (copy enclosed) regarding your proposal to store water in the Geiger Creek watershed. This meeting was to be the determining factor in whether you would be amending your applications or pursuing them as originally submitted.

I have not heard from you since that time. Please get back to me by letter by the end of July and let me know what your intent is on these two applications. Thanks.

Sincerely,

Weisha Mize

Weisha Mize
Hearings Referee

encl.

cc: ✓Jake Szramek
Steve Brown
John Drolet, Dist. 19

NEIL GOLDSCHMIDT
GOVERNOR

Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310 PHONE 378-3066

July 13, 1990

Wayne Scherer
Windhurst Road Water Corp.
PO Box 503
Bandon, OR 97411

RE: Request for Status Update, Applications R69708, 69654

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Sincerely,

Weisha Mize

Weisha Mize
Hearings Referee

encl.

cc: Jake Szramek
✓Steve Brown
John Drolet, Dist. 19

R-69 708
69654

May 7, 1990

RECEIVED
MAY 10 1990
WATER RESOURCES DEPT.
SALEM, OREGON

Weisha Mize
Hearings Referee
Water Resources Department
3850 Portland Rd. N.E.
Salem, Oregon, 97310

Dear Weisha,

I'm sorry for the mix-up in communications in regards to our water rights applications. I had asked Jim Gossen, our water rights examiner to prepare a short summary on where everything stands, - and then we both forgot about it.

The Bandon City Council has put off again discussion and approval or disapproval of our request for water storage in the Geiger Creek watershed, and possible pumping from Geiger Creek during the heavy stream flows during the winter. We know that their decision may be based in part on the conclusions reached by Tucson Meyers and the proposal to build a very large dam at the confluence of Geiger and Ferry Creeks. That meeting has been scheduled for May 15, and will be the only item on the agenda. It will be at a special meeting hall that can accommodate a larger crowd than the city council chambers. We know that that report will have a tremendous impact on our requests.

If the conclusion is that we cannot pump water and/or not be able to build storage we will be forced to retreat to our original applications to provide the necessary water to maintain existing cranberry beds and provide for proposed expansion programs.

Continued investigation into our original application has discovered that one of the cornerstones to the ODFW request to deny our applications was based on erroneous findings. It appears that the "native" anadromous fish runs in Bills Creek are in fact not native, but the result of hatch boxes placed above our proposed point of diversion by our active local S.T.E.P. program. Under the circumstances, we may be forced to hire an experienced water rights attorney to present our case at the public hearing that is presently in a "holding pattern".

I'm sure that you are aware that we have lost the opportunity to purchase the property that Bills Creek crosses at the proposed point of diversion because of all the time that this whole process has taken. We have been given the opportunity of an easement over the property for a pumping station and a water line.

In summary then, we ask that the applications continue in a "holding pattern" until we find out what the city of Bandon will be doing, and allow us to do.

Thank you again for your time and consideration.

Wayne

Wayne R. Scherer
Windhurst Road Water Corp.
P.O. Box 503
Bandon, Oregon, 97411

CC: Jake Szramek
Greg Robart

NEIL GOLDSCHMIDT
GOVERNOR

Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310 PHONE 378-3066

May 3, 1990

Wayne Scherer
Windhurst Road Water Corp.
Box 503
Bandon, OR 97411

RE: Applications R69708, 69654

Dear Wayne:

After our phone conversation on April 16, I had the understanding that you would be investigating the next steps you needed to take in regard to the above applications, particularly storage application R69708, and that you would be discussing the matter with Jake Szramek of this Department. I had thought that I would be hearing from you shortly thereafter regarding whether you wished protested application 69654 to be set for hearing.

Please write to me by May 15 and indicate your intention on these two applications. I would prefer that this communication be in writing rather than over the telephone so that there is no question about your intent and no possible misinterpretation as represented by notes I would take of a phone conversation. Thank you for your cooperation.

Sincerely,

Weisha Mize

Weisha Mize
Hearings Referee

cc: Jake Szramek
Greg Robart

NEIL GOLDSCHMIDT
GOVERNOR

Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310 PHONE 378-3066

October 5, 1989

Windhurst Road Water Corporation
ATTN: Wayne Scherer
PO Box 503
Bandon, OR 97411

RE: Applications 69654 & R69708

Dear Mr. Scherer:

Enclosed please find the Order granting your request for postponement of the hearing in the above-referenced applications.

I'm sure you understand that in order to allow you to file an application for storage on Geiger Creek, the State Engineer withdrawal order will need to be rescinded or amended. You will need to petition the Commission for rulemaking to rescind the withdrawal order of the State Engineer.

I enclose a copy of OAR 137-01-070 regarding petitions for rulemaking. The Department is fairly liberal in what it accepts as petitions but I would recommend you follow the format set out in the rule as closely as possible. You might also contact the Department's Planning section for further information and data in support of your request.

You should also keep ODFW, and DEQ, which has indicated an interest in this matter, informed and seek their input regarding your proposal for storage on Geiger Creek.

Sincerely,

Weisha Mize

Weisha Mize
Hearings Referee

WM/hmm

Enclosures

BEFORE THE WATER RESOURCES DEPARTMENT OF OREGON

IN THE MATTER OF APPLICATIONS 69654 & R69708 IN THE NAME OF WINDHURST ROAD WATER COMPANY FOR USE AND STORAGE OF WATER FROM BILL CREEK, TRIBUTARY TO BEAR CREEK, COOS COUNTY, OREGON	ORDER GRANTING POSTPONEMENT OF PUBLIC INTEREST HEARING

Applicant Windhurst Road Water Company, by and through its representative, Wayne Scherer, has requested a postponement for an indefinite period of time for the above hearing presently scheduled for October 11, 1989. The request for postponement was received September 27, 1989.

The Applicant states that it has been involved in preliminary discussions with the City of Bandon regarding the possibility of water storage in the upper Geiger Creek watershed for use in the late summer and fall in cranberry harvest activities. It appears that it is the applicants intent that such storage and use would replace the proposed appropriation and storage represented by the applications contested herein.

ODFW has been named as an interested agency in this matter. ODFW has indicated, on inquiry by the hearings referee, that it would not object to a postponement of the hearing.

It does not appear that this request is made for the purposes of delay or avoidance. It would be appropriate and in the best interests of all concerned to grant applicant's request for postponement.

The contested case hearing on applications 69654 and R69708, scheduled to be heard on October 11, 1989, is hereby postponed for a period of time not to exceed 6 months. The applicant is directed to initiate actions necessary to pursue the possibility of storage in the upper Geiger Creek watershed, and to report bi-monthly to the hearings referee on the status of its activities in this regard.

Signed and dated this 4th day of October, 1989.

Weisha Mize
Hearings Referee

R-69708

RECEIVED
SEP 27 1989
WATER RESOURCES DEPT.
SALEM, OREGON

September 20, 1989

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

Attention: Jake Szramek

Re: Bill Creek Dam Project - Bandon, Oregon

Dear Mr. Szramek:

By this letter, the Windhurst Road Water Corporation is requesting an indefinite postponement of the contested case hearing on the Bill Creek Dam project scheduled for October 11, 1989 at Bandon.

We have contacted the City of Bandon regarding the possibility of storing water in the upper Geiger Creek watershed. They have indicated an interest to the extent of asking for a proposal with more detailed information.

We feel that having stored water available in late summer and fall in this area will benefit us from a standpoint of having an adequate and stable water supply, and will result in less competition for the natural stream flow at that time of year, resulting in more water for the City of Bandon and the Oregon Department of Fish and Wildlife Hatchery at the confluence of Ferry and Geiger Creeks.

There is a State Engineer's Order dated April 13, 1961 withdrawing the Ferry and Geiger Creek watersheds from further appropriation except for municipal use by the City of Bandon.

If the City of Bandon and the Oregon Water Resources Commission would consider allowing up to 200 acre feet of storage in the upper Geiger Creek watershed, all of the problems associated with the proposed storage reservoir on Bill Creek appear to us to be addressed in a positive manner.

Until these issues can be properly addressed, we believe it to be in the best interest of all parties and agencies concerned to postpone the contested case hearing.

Very truly yours,

Wayne Scherer

Wayne Scherer
for Windhurst Road Water Corporation

WS/p

RECEIVED
JUL 17 1989
WATER RESOURCES DEPT.
SALEM, OREGON

July 9, 1989

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

Attention: Steve Applegate

Re: Applications #R-69708 and 69654

Having received a copy of a letter from Lou Fredd of the Oregon Department of Fish and Wildlife to your office of June 27, 1989, we (Windhurst Road Water Corporation) offer the following comments.

We concur that there are, or could be, negative aspects to the project. We feel that we have also identified some of them while others remain elusive. Our goal is to attempt to eliminate the remaining "cons" to the extent that the project is eventually looked upon as an asset by all parties having a role in its development.

We would like to respond to the "cons" and the questions in Mr. Fredd's letter in the same order as presented.

CONS

#1 Reservoir creation will denude streamside vegetation.

We admit that a reservoir shoreline possesses physical features different from that of a flowing stream, and that some denuding would occur. We would like to suggest leaving some, or possibly all, of the larger trees within the proposed pool area as habitat for bird life such as ospreys, as well as bird houses mounted in trees immediately adjacent to the pool for use by wood ducks and possibly other bird species. We would hope that features such as that would help to mitigate the loss of streamside vegetation.

#2 Redds (Salmonid Nests) will be inundated in the flooded area created by the impoundment.

We have no direct solution to this problem. We would anticape beginning to place flashboards in the structure between April 15th and May 15th, and possibly as late as June 1st. During some years, Redds would be inundated in the pool area and the eggs probably destroyed. We feel that a STEP hatch-box program utilizing the pool would contribute toward mitigating that loss. We also believe many fish will survive in the pool which normally would be lost to low flows and high temperatures.

#3 Adult steelhead passage will be blocked off while the reservoir is filling.

We have always felt that any structure blocking the upstream migration of anadromous fish would not only be disallowed, but also unwanted by all parties. We feel that we have a project that avoids that condition by scheduling the placement and removal of the flashboards so as to allow free and unencumbered upstream passage for all adult anadromous fish, whether it be in the fall, winter or spring.

To elaborate on what we believed to be a crucial component of our position regarding the project, **flashboards would not be placed until the adult run had passed.** We have always accepted that condition as not subject to infringement. Agency enforcement, as we visualize it, would be by the Oregon Department of Fish and Wildlife. The document containing and identifying the enforceable elements being an operation agreement between the Windhurst Road Water Corporation and the Oregon Department of Fish and Wildlife. During March of this year we composed a preliminary partial draft of an agreement, but the testimony of the Oregon Department of Fish and Wildlife at the Water Resources Commission meeting on April 17th has denied its being considered. A copy is enclosed for your information.

QUESTIONS

#1 How much surplus water will be available for release to augment Bill Creek flows?

We have made application to store 100 acre-feet of water for cranberry irrigation, cranberry temperature control, cranberry flood harvest, and irrigation. We feel this amount, in combination with our existing water rights, is a bare minimum necessary to accomodate our late summer and autumn water needs over the next several decades. No application has been made yet to store water for release for any other identifiable and approved beneficial uses. We would certainly be available to discuss the concept with representatives of your department and the Oregon Department of Fish and Wildlife. There is a practical limit to the height of a flashboard dam structure from both a design and operation standpoint. As a result of the project being contested by the Oregon Department of Fish and Wildlife, all surveying and engineering was halted

pending the results of the contested case hearing.

A portion of the surveying would have produced information that is necessary to develop mapping the proposed dam site, and reservoir area. Without this information we are not prepared to commit ourselves to attempting to identify possible additional storage quantities in terms of additional dam height. It may be that the dam at a 25 foot height will impound more than 100 acre-feet. That information just isn't available at this time.

#2 If reservoir creation provides increased summer production, will available Bill Creek winter habitat support this increase?

We do not know the answer. We suggest that an inventory of winter habitat be developed and compare that with the estimated increased summer production. We would like to enlist the aid of the Oregon Department of Fish and Wildlife for assistance in attempting to place that question in focus, especially that portion regarding summer production in the reservoir area.

#3 Will reservoir operation errors kill fish?

We believe that reservoir operation errors will definitely kill fish. That is why we feel that a structured reservoir operation agreement identifying explicit duties, responsibilities and authorities of both parties is the only possible way a facility of this nature can be operated without an unacceptable loss of fish.

#4 What is the proposed ladder design?

If an upstream ladder is required, its design would be based on the design of the existing ladders in use at the Bandon Fish Hatchery. Downstream migrating juvenile fish would move from the pond to the creek bed below the dam via a water-fed P.V.C. slide designed so as to provide a means of their passing from the pool to the downstream area without injury. Frankly, we do not see the necessity for an upstream ladder facility.

Additional Comments:

We also have concerns. We have taken a position with regard to some components of the project because we feel that we have some of the answers.

We would like to be able to again meet and work with personnel from the Oregon Department of Fish and Wildlife. We have to be candid, however, in telling you that without some encouragement for the project, that authorizing additional consulting work to assist in getting answers would be a difficult decision for us.

All of us living along this section of the Southern Oregon coast are faced with a water problem. Municipalities, industry, agriculture--you name it. People are either going to have to stop coming here, or we are going to have to develop ways to increase the amount of available water for them. The only remaining option available is storage. Your department identifies that in the South Coast Basin Plan.

As we mentioned earlier, there is no "surplus" water associated with the project. We plan to store 100 acre-feet per year--we plan to use 100 acre-feet per year. Natural stream flows entering the pool area when storage is not allowed must be routed through rather than stored. In other words, the amount of water entering the pool must also be released from the pool. If that amount is 0.06 ft.^{3}/sec., as it was on August 19, 1988, it will be that same amount downstream of the dam. If additional stored water is desired for any beneficial use, our understanding is that an application must be filed identifying that use, the amount, and other particulars, just as we have done. We have always been receptive to discussing this subject.

We do not feel that water quality will be a significant problem. We base this, in part, on our observation of water from the Ferry Creek and Geiger Creek reservoirs, located at the ODFW Fish Hatchery at Bandon. We are not aware of serious water quality problems with that operation. We feel that the quality of water from our project would exceed that from Ferry and Geiger Creek reservoirs if for no other reason than that those reservoir areas have sustained serious siltation over the years and are relatively shallow, whereas the Bill Creek pool would be in the neighborhood of three times as deep and siltation would be minimal due to the flashboard dam concept.

Mr. Fredd's letter appears to suggest that the Fish and Wildlife Department's concerns have increased as a result of the recent seining work in Bill Creek, and also confirms the Department's position expressed in the letter of April 7, 1989. One of the positions being that they felt an agreement between them and Windhurst Road Water Corporation would not be possible. It may not be, but at this point in time we have problems identifying the reasons why it isn't.

We intentionally have halted any further expenditure of money on engineering design for this reason. The project must receive some element of acceptance based upon concepts prior to spending money on engineering drawings and specifications. The engineering can be done when it is decided what the project's basic components and features are to be. We feel this to be not only a practical approach, but also a responsible approach to a project such as this.

Frankly, Mr. Applegate, it is our belief that if it is not possible to develop an agreement in concert with ODFW, it is not possible to develop a project in concert with ODFW, and additional engineering wouldn't contribute to an agreement.

Very truly yours,

Wayne Scherer

Wayne Scherer
Windhurst Road Water Corporation

cc: Bill Bradbury
James F. Gosson
Mr. Fessler ODFW Roseburg
Mr. Mullarkey ODFW Coos Bay

Enclosure

WS/p

Second Draft - 3/4/89

AGREEMENT

This agreement is entered into between the Windhurst Road Water Corporation, Coos County, Oregon, referred to as "Corporation", and the Oregon Department of Fish and Wildlife, referred to as "Department", for the purposes of diverting water from Bill Creek for agricultural purposes and of maintaining and enhancing the habitat of Bill Creek.

WHEREAS

The Corporation wishes to construct a dam on Bill Creek so as to store water for agricultural purposes:

AND WHEREAS

The Department wishes to maintain the Bill Creek watershed for the migration, spawning, and rearing of anadromous fish:

NOW THEREFORE BE IT RESOLVED

That the Corporation:

(1) Will not construct a dam or store water in such a manner so as to interfere with migration, or adversely affect spawning and rearing.

(2) Will release a portion of natural flow during the storage phase by way of a valved conduit so as to provide water for downstream habitat.

(3) Will provide a safe means of transporting downstream migrants from the reservoir to the downstream channel.

(4) During any given year:

a. Will not place flashboards in the structure prior to April 15th.

b. Will not place flashboards exceeding a total height of 24 inches between April 15th and May 15th without Department permission.

c. Will install the remaining flashboards between May 15th and May 31st in such a manner so as to produce the remaining seasonal storage, while routing that portion through the reservoir demanded by prior right holders downstream as well as 25% of the remaining natural flow.

d. Will remove all flashboards on or before November 20th.

e. Will have no flow-restricting devices in the channel between November 21st of any given year through April 14th of the following year.

(5) Will construct, maintain, and operate facilities for measuring natural stream flow upstream and downstream of the reservoir. Staff gages will be placed at those locations as well as at the point of diversion. Facilities may include wiers, calibrated sections of open channels, or other facilities as required by the Watermaster.

(6) Will include a valved conduit in the design of the dam structure of a size that will:

a. Facilitate the release of the cooler water for downstream habitat during those periods when storage is not permitted.

b. Facilitate the release of water while installing, adjusting and removing flashboards.

(7) Will provide, maintain and operate a smooth sloping trough in the design of the dam structure that will transport downstream fingerling anadromous fish from the reservoir to the stream channel below the dam without de-scaling, or other serious injury.

(8) Will provide and maintain a screen device that will prohibit anadromous fish from entering the pump diversion works.

(9) Will monitor and measure the stream flow and regulate the placement and/or removal of flashboards in such a manner as to satisfy the Corporation's obligations described in this agreement.

THAT THE DEPARTMENT:

(1) Will notify the Corporation of the use of the stream by upstream migrating anadromous fish from that period between April 15th and May 15th of any given year, and monitor the placement of flashboards during that interval, necessary to accomodate them.

NEIL GOLDSCHMIDT
GOVERNOR

Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

RECEIVED
JUN 29 1989
WATER RESOURCES DEPT.
SALEM, OREGON

June 27, 1989

Steve Applegate
Water Resources Department
3850 Portland Road NE
Salem, OR 97330

Dear Steve:

Re: Water Right R-69708 and 69654, Windhurst Farms, Bill Creek

On May 31, 1989 Oregon Department of Fish and Wildlife (ODFW) biologists met to discuss this proposed project. The below listed points were discussed and agreed upon as items of concern which could impact fish habitat if the project were permitted.

Pros

1. Bill Creek flows downstream from the project may be increased during the summer low flow period.

2. Creation of an in-channel pond may provide additional salmonid rearing area.

3. Flooded lands created by the reservoir would provide additional wetland.

Cons

1. Reservoir creation will denude streamside vegetation.

2. Redds (salmonid nests) will be inundated in the flooded area created by the impoundment.

3. Adult steelhead passage will be blocked while the reservoir is filling.

Questions

1. How much surplus water will be available for release to augment Bill Creek flows.

2. If reservoir creation provides increased summer production, will available Bill Creek winter habitat support this increase?

3. Will Reservoir operation errors kill fish?

4. What is the proposed ladder design?

Following our meeting, ODFW biologists Fessler, Mullarkey, Johnson and Robart proceeded to Bill Creek and seined fish from instream pools above the proposed project site. Fish information collected is summarized in the table below. (Note: Trout juveniles are either steelhead or cutthroat trout, too small to distinguish)

Pool Number	Coho Salmon	Trout	Area Seined (Sq. Yds.)
1	61	5	20
2	70	10	40

Conclusion

The number of small fish collected in such a small area of stream sampled demonstrates productive habitat for both anadromous and resident salmonids. The ODFW remains concerned about the unanswered questions and potential adverse impacts of this proposed project. These appear to outweigh the fish habitat values to be gained. Of particular concern is the question regarding the quantity and quality of surplus water available for downstream release. Department fish species abundance and distribution data for Bill Creek indicates 100 adult coho and 30 adult steelhead escape to spawn in Bill Creek Our May 31 seine sampling on Bill Creek confirms that at least this much anadromous fish production potential exists for Bill Creek.

Our recent meeting coupled with observations of Bill Creek habitat values confirms the additional concerns and ODFW position expressed in our April 7, 1989 letter to the Water Resources Commission. The applicant has not offered to develop any of the information requested by ODFW in that letter or in earlier discussions.

Thank you for the opportunity to comment.

Sincerely,

Louis Fredd
Staff Biologist
Aquatic Habitat Program
Habitat Conservation Division

c Windhurst Road Water Corp.

RECEIVED
JUL 17 1989
WATER RESOURCES DEPT.
SALEM, OREGON

July 9, 1989

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

Attention: Steve Applegate

Re: Applications #R-69708 and 69654

Having received a copy of a letter from Lou Fredd of the Oregon Department of Fish and Wildlife to your office of June 27, 1989, we (Windhurst Road Water Corporation) offer the following comments.

We concur that there are, or could be, negative aspects to the project. We feel that we have also identified some of them while others remain elusive. Our goal is to attempt to eliminate the remaining "cons" to the extent that the project is eventually looked upon as an asset by all parties having a role in its development.

We would like to respond to the "cons" and the questions in Mr. Fredd's letter in the same order as presented.

CONS

#1 Reservoir creation will denude streamside vegetation.

We admit that a reservoir shoreline possesses physical features different from that of a flowing stream, and that some denuding would occur. We would like to suggest leaving some, or possibly all, of the larger trees within the proposed pool area as habitat for bird life such as ospreys, as well as bird houses mounted in trees immediately adjacent to the pool for use by wood ducks and possibly other bird species. We would hope that features such as that would help to mitigate the loss of streamside vegetation.

#2 Redds (Salmonid Nests) will be inundated in the flooded area created by the impoundment.

We have no direct solution to this problem. We would anticape beginning to place flashboards in the structure between April 15th and May 15th, and possibly as late as June 1st. During some years, Redds would be inundated in the pool area and the eggs probably destroyed. We feel that a STEP hatch-box program utilizing the pool would contribute toward mitigating that loss. We also believe many fish will survive in the pool which normally would be lost to low flows and high temperatures.

#3 Adult steelhead passage will be blocked off while the reservoir is filling.

We have always felt that any structure blocking the upstream migration of anadromous fish would not only be disallowed, but also unwanted by all parties. We feel that we have a project that avoids that condition by scheduling the placement and removal of the flashboards so as to allow free and unencumbered upstream passage for all adult anadromous fish, whether it be in the fall, winter or spring.

To elaborate on what we believed to be a crucial component of our position regarding the project, flashboards would not be placed until the adult run had passed. We have always accepted that condition as not subject to infringement. Agency enforcement, as we visualize it, would be by the Oregon Department of Fish and Wildlife. The document containing and identifying the enforceable elements being an operation agreement between the Windhurst Road Water Corporation and the Oregon Department of Fish and Wildlife. During March of this year we composed a preliminary partial draft of an agreement, but the testimony of the Oregon Department of Fish and Wildlife at the Water Resources Commission meeting on April 17th has denied its being considered. A copy is enclosed for your information.

QUESTIONS

#1 How much surplus water will be available for release to augment Bill Creek flows?

We have made application to store 100 acre-feet of water for cranberry irrigation, cranberry temperature control, cranberry flood harvest, and irrigation. We feel this amount, in combination with our existing water rights, is a bare minimum necessary to accomodate our late summer and autumn water needs over the next several decades. No application has been made yet to store water for release for any other identifiable and approved beneficial uses. We would certainly be available to discuss the concept with representatives of your department and the Oregon Department of Fish and Wildlife. There is a practical limit to the height of a flashboard dam structure from both a design and operation standpoint. As a result of the project being contested by the Oregon Department of Fish and Wildlife, all surveying and engineering was halted

pending the results of the contested case hearing.

A portion of the surveying would have produced information that is necessary to develop mapping the proposed dam site, and reservoir area. Without this information we are not prepared to commit ourselves to attempting to identify possible additional storage quantities in terms of additional dam height. It may be that the dam at a 25 foot height will impound more than 100 acre-feet. That information just isn't available at this time.

#2 If reservoir creation provides increased summer production, will available Bill Creek winter habitat support this increase?

We do not know the answer. We suggest that an inventory of winter habitat be developed and compare that with the estimated increased summer production. We would like to enlist the aid of the Oregon Department of Fish and Wildlife for assistance in attempting to place that question in focus, especially that portion regarding summer production in the reservoir area.

#3 Will reservoir operation errors kill fish?

We believe that reservoir operation errors will definitely kill fish. That is why we feel that a structured reservoir operation agreement identifying explicit duties, responsibilities and authorities of both parties is the only possible way a facility of this nature can be operated without an unacceptable loss of fish.

#4 What is the proposed ladder design?

If an upstream ladder is required, its design would be based on the design of the existing ladders in use at the Bandon Fish Hatchery. Downstream migrating juvenile fish would move from the pond to the creek bed below the dam via a water-fed P.V.C. slide designed so as to provide a means of their passing from the pool to the downstream area without injury. Frankly, we do not see the necessity for an upstream ladder facility.

Additional Comments:

We also have concerns. We have taken a position with regard to some components of the project because we feel that we have some of the answers.

We would like to be able to again meet and work with personnel from the Oregon Department of Fish and Wildlife. We have to be candid, however, in telling you that without some encouragement for the project, that authorizing additional consulting work to assist in getting answers would be a difficult decision for us.

All of us living along this section of the Southern Oregon coast are faced with a water problem. Municipalities, industry, agriculture--you name it. People are either going to have to stop coming here, or we are going to have to develop ways to increase the amount of available water for them. The only remaining option available is storage. Your department identifies that in the South Coast Basin Plan.

As we mentioned earlier, there is no "surplus" water associated with the project. We plan to store 100 acre-feet per year--we plan to use 100 acre-feet per year. Natural stream flows entering the pool area when storage is not allowed must be routed through rather than stored. In other words, the amount of water entering the pool must also be released from the pool. If that amount is 0.06 $ft.^3/sec.$, as it was on August 19, 1988, it will be that same amount downstream of the dam. If additional stored water is desired for any beneficial use, our understanding is that an application must be filed identifying that use, the amount, and other particulars, just as we have done. We have always been receptive to discussing this subject.

We do not feel that water quality will be a significant problem. We base this, in part, on our observation of water from the Ferry Creek and Geiger Creek reservoirs, located at the ODFW Fish Hatchery at Bandon. We are not aware of serious water quality problems with that operation. We feel that the quality of water from our project would exceed that from Ferry and Geiger Creek reservoirs if for no other reason than that those reservoir areas have sustained serious siltation over the years and are relatively shallow, whereas the Bill Creek pool would be in the neighborhood of three times as deep and siltation would be minimal due to the flashboard dam concept.

Mr. Fredd's letter appears to suggest that the Fish and Wildlife Department's concerns have increased as a result of the recent seining work in Bill Creek, and also confirms the Department's position expressed in the letter of April 7, 1989. One of the positions being that they felt an agreement between them and Windhurst Road Water Corporation would not be possible. It may not be, but at this point in time we have problems identifying the reasons why it isn't.

We intentionally have halted any further expenditure of money on engineering design for this reason. The project must receive some element of acceptance based upon concepts prior to spending money on engineering drawings and specifications. The engineering can be done when it is decided what the project's basic components and features are to be. We feel this to be not only a practical approach, but also a responsible approach to a project such as this.

Frankly, Mr. Applegate, it is our belief that if it is not possible to develop an agreement in concert with ODFW, it is not possible to develop a project in concert with ODFW, and additional engineering wouldn't contribute to an agreement.

Very truly yours,

Wayne Scherer

Wayne Scherer
Windhurst Road Water Corporation

cc: Bill Bradbury
James F. Gosson
Mr. Fessler ODFW Roseburg
Mr. Mullarkey ODFW Coos Bay

Enclosure

WS/p

Second Draft - 3/4/89

AGREEMENT

This agreement is entered into between the Windhurst Road Water Corporation, Coos County, Oregon, referred to as "Corporation", and the Oregon Department of Fish and Wildlife, referred to as "Department", for the purposes of diverting water from Bill Creek for agricultural purposes and of maintaining and enhancing the habitat of Bill Creek.

WHEREAS

The Corporation wishes to construct a dam on Bill Creek so as to store water for agricultural purposes:

AND WHEREAS

The Department wishes to maintain the Bill Creek watershed for the migration, spawning, and rearing of anadromous fish:

NOW THEREFORE BE IT RESOLVED

That the Corporation:

(1) Will not construct a dam or store water in such a manner so as to interfere with migration, or adversely affect spawning and rearing.

(2) Will release a portion of natural flow during the storage phase by way of a valved conduit so as to provide water for downstream habitat.

(3) Will provide a safe means of transporting downstream migrants from the reservoir to the downstream channel.

(4) During any given year:

a. Will not place flashboards in the structure prior to April 15th.

b. Will not place flashboards exceeding a total height of 24 inches between April 15th and May 15th without Department permission.

c. Will install the remaining flashboards between May 15th and May 31st in such a manner so as to produce the remaining seasonal storage, while routing that portion through the reservoir demanded by prior right holders downstream as well as 25% of the remaining natural flow.

d. Will remove all flashboards on or before November 20th.

e. Will have no flow-restricting devices in the channel between November 21st of any given year through April 14th of the following year.

(5) Will construct, maintain, and operate facilities for measuring natural stream flow upstream and downstream of the reservoir. Staff gages will be placed at those locations as well as at the point of diversion. Facilities may include wiers, calibrated sections of open channels, or other facilities as required by the Watermaster.

(6) Will include a valved conduit in the design of the dam structure of a size that will:

a. Facilitate the release of the cooler water for downstream habitat during those periods when storage is not permitted.

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THAT THE DEPARTMENT:

(1) Will notify the Corporation of the use of the stream by upstream migrating anadromous fish from that period between April 15th and May 15th of any given year, and monitor the placement of flashboards during that interval, necessary to accomodate them.

NEIL GOLDSCHMIDT
GOVERNOR

Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

RECEIVED
AUG - 3 1989
WATER RESOURCES DEPT.
SALEM, OREGON

July 26, 1989

Weisha Mize
Water Resources Department
3850 Portland Road NE
Salem, OR 97310

Dear Weisha:

Re: Water Right R69708, 69654, Proposed Agreement, Windhurst Water Corporation/ODFW.

The Oregon Department of Fish and Wildlife has reviewed the July 9, 1989 proposed agreement submitted by Wayne Scherer, Windhurst Road Water Corporation. As I mentioned to you yesterday, although we appreciate Mr. Scherer's attempts to reach agreement, the terms expressed in his recent proposal do not alleviate our original concerns.

Mr. Scherer's proposed agreement attempts resolution absent specific hydrology and engineering designs showing how fish would be protected. So long as the applicant can provide only general concepts as to what he envisions, agreement will remain out of reach. The project Mr. Scherer proposes offers the same risks expressed in our April 7, 1989 letter to WRC about this project.

Thank you for the opportunity to consider Mr. Scherer's proposed agreement. For the reasons expressed in our prior correspondence we anticipate referral of this issue to an October 11, 1989 contested case hearing to determine the public interest.

Sincerely,

Greg Robart

Gregory P. Robart
Staff Biologist
Aquatic Habitat Program
Habitat Conservation Division

gpr
c WRD - Szramek/Applegate

NEIL GOLDSCHMIDT
GOVERNOR

Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

RECEIVED
JUN 29 1989
WATER RESOURCES DEPT.
SALEM, OREGON

June 27, 1989

Steve Applegate
Water Resources Department
3850 Portland Road NE
Salem, OR 97330

Dear Steve:

Re: Water Right R-69708 and 69654, Windhurst Farms, Bill Creek

On May 31, 1989 Oregon Department of Fish and Wildlife (ODFW) biologists met to discuss this proposed project. The below listed points were discussed and agreed upon as items of concern which could impact fish habitat if the project were permitted.

Pros

1. Bill Creek flows downstream from the project may be increased during the summer low flow period.

2. Creation of an in-channel pond may provide additional salmonid rearing area.

3. Flooded lands created by the reservoir would provide additional wetland.

Cons

1. Reservoir creation will denude streamside vegetation.

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3. Adult steelhead passage will be blocked while the reservoir is filling.

Questions

1. How much surplus water will be available for release to augment Bill Creek flows.

2. If reservoir creation provides increased summer production, will available Bill Creek winter habitat support this increase?

3. Will Reservoir operation errors kill fish?

4. What is the proposed ladder design?

Following our meeting, ODFW biologists Fessler, Mullarkey, Johnson and Robart proceeded to Bill Creek and seined fish from instream pools above the proposed project site. Fish information collected is summarized in the table below. (Note: Trout juveniles are either steelhead or cutthroat trout, too small to distinguish)

Pool Number	Coho Salmon	Trout	Area Seined (Sq. Yds.)
1	61	5	20
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Conclusion

The number of small fish collected in such a small area of stream sampled demonstrates productive habitat for both anadromous and resident salmonids. The ODFW remains concerned about the unanswered questions and potential adverse impacts of this proposed project. These appear to outweigh the fish habitat values to be gained. Of particular concern is the question regarding the quantity and quality of surplus water available for downstream release. Department fish species abundance and distribution data for Bill Creek indicates 100 adult coho and 30 adult steelhead escape to spawn in Bill Creek Our May 31 seine sampling on Bill Creek confirms that at least this much anadromous fish production potential exists for Bill Creek.

Our recent meeting coupled with observations of Bill Creek habitat values confirms the additional concerns and ODFW position expressed in our April 7, 1989 letter to the Water Resources Commission. The applicant has not offered to develop any of the information requested by ODFW in that letter or in earlier discussions.

Thank you for the opportunity to comment.

Sincerely,

Louis Fredd
Staff Biologist
Aquatic Habitat Program
Habitat Conservation Division

c Windhurst Road Water Corp.

Steve Applegate

BEFORE THE WATER RE

IN THE MATTER OF APPLICATIONS [illegible])
R69708 IN THE NAME OF WINDHURST ROAD) NOTICE OF PUBLIC
WATER CO. FOR USE AND STORAGE OF WATER) INTEREST HEARING
FROM BILL CREEK, TRIBUTARY TO BEAR)
CREEK, COOS COUNTY, OREGON)

TO: Windhurst Road Water Corporation
PO Box 503
Bandon, OR 97411

Pursuant to the provisions of ORS 183.415, 537.170, & 537.180, you are hereby notified that a public interest contested case hearing in the matter of applications R69708 and 69654 will be held before Weisha Mize, an employe of the Water Resources Department, authorized to preside in behalf of the Director as a finder of fact. The hearing will begin at 10:00 AM on October 11, 1989, at the Bandon City Hall in Bandon, Oregon.

Application R69708 was filed on September 6, 1988, for a permit to store up to 100 acre-feet of water in a reservoir that is 25 feet in height. The reservoir will be located in the NE 1/4 SW 1/4 of Section 3, Township 29 South, Range 14 West, WM. The proposed Point of Diversion is Bill Creek, tributary to Bear Creek, tributary to Coquille River. The water will be used for cranberry irrigation, cranberry temperature control, cranberry flood harvest, and irrigation.

Application 69654 was filed on June 30, 1988, for a permit to appropriate up to 10 cfs for flood harvest, 21.20 cfs for temperature control, 3.53 cfs for cranberry irrigation, and 0.05 cfs for irrigation from stored water from the reservoir and from Bill Creek, tributary to Bear Creek.

The location of the proposed point of diversion from Bill Creek is described as 40 feet South and 2340 feet East from the West quarter corner of Section 3, being within the NE 1/4 of the SW 1/4 of Section 3, Township 29 South, Range 14 West, WM.

Lands on which water appropriated under Application 69654 will be used for the various purposes and are described as many small parcels. The total acres in each 1/4 1/4 section is shown below:

1/4 1/4	Section	Township	Range	Acres
SE/NE	5	29 S	14 W	16.90
NE/SE	5	29 S	14 W	6.00
NW/NE	5	29 S	14 W	.40
NE/NE	5	29 S	14 W	1.40
SW/NE	5	29 S	14 W	2.00
NW/SW	4	29 S	14 W	17.25
SW/SW	4	29 S	14 W	15.10
SE/SW	4	29 S	14 W	1.00
NE/SE	4	29 S	14 W	5.00
NW/SW	3	29 S	14 W	3.00
NW/NE	9	29 S	14 W	5.00
NE/NE	9	29 S	14 W	5.50
SW/NE	9	29 S	14 W	9.80
NW/SW	33	28 S	14 W	13.00
NE/SW	33	28 S	14 W	5.00
NE/NE	32	28 S	14 W	12.80
SE/NE	32	28 S	14 W	22.20
				141.35

The applicant, WRD and ODFW have engaged in a number of discussions in an attempt to resolve identified natural resource concerns. No satisfactory agreement has been reached and the Water Resources Commission directed that the matter be set for a public interest-contested case hearing.

Interested persons or agencies may request full or limited party status or interested agency status in the hearing by filing a petition for party or limited party status or request for interested agency status with the Department of Water Resources no later than August 21, 1989. Oregon Administrative Rules 137-03-005, 137-03-007, and 690-02-001 govern requests for party or limited party status and non-attorney representation. OAR 137-03-007 governs requests by agencies to participate as a party or interested agency.

Attached is information on the procedures, right of representation, and other rights of parties relating to conduct of the hearing, as required by the provisions of ORS 183.413(2), and a copy of OAR 690-11-010, 690-11-080, and 690-75 et seq. pertaining to issues and procedures in public interest hearings. OAR 690-11-080 should be read in conjunction with the definitions in 690-11-010.

The issue to be determined in this proceeding is whether the storage and use as proposed by Applications R69708 and 69654 would be prejudicial to the public interest.

The applicant, ODFW, and all full or limited parties admitted on petition shall file written direct testimony and proof of service on all other parties with the Hearings Referee no later than September 22, 1989. The hearing shall be limited to opening statements, cross-examination on pre-filed direct testimony, rebuttal, and closing arguments. The order of the hearing will be:

1. ODFW (Interested agency)

2. Parties admitted on petition

3. Applicant

4. Rebuttal

The applicant had the burden to show that the proposed use of water would not be prejudicial to the public interest. The ODFW has the burden to produce testimony and evidence to support the allegation that the proposed use will cause harm to the public interest.

DATED at Salem, Oregon this 10th day of August, 1989.

William H. Young

WILLIAM H. YOUNG
Director

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

CC: John Drolet, Watermaster, District 19

BEFORE THE WATER RESOURCES DEPARTMENT OF OREGON

IN THE MATTER OF APPLICATIONS 69654 & R69708 IN THE NAME OF WINDHURST ROAD WATER COMPANY FOR USE AND STORAGE OF WATER FROM BILL CREEK, TRIBUTARY TO BEAR CREEK, COOS COUNTY, OREGON	ORDER GRANTING POSTPONEMENT OF PUBLIC INTEREST HEARING

Applicant Windhurst Road Water Company, by and through its representative, Wayne Scherer, has requested a postponement for an indefinite period of time for the above hearing presently scheduled for October 11, 1989. The request for postponement was received September 27, 1989.

The Applicant states that it has been involved in preliminary discussions with the City of Bandon regarding the possibility of water storage in the upper Geiger Creek watershed for use in the late summer and fall in cranberry harvest activities. It appears that it is the applicants intent that such storage and use would replace the proposed appropriation and storage represented by the applications contested herein.

ODFW has been named as an interested agency in this matter. ODFW has indicated, on inquiry by the hearings referee, that it would not object to a postponement of the hearing.

It does not appear that this request is made for the purposes of delay or avoidance. It would be appropriate and in the best interests of all concerned to grant applicant's request for postponement.

The contested case hearing on applications 69654 and R69708, scheduled to be heard on October 11, 1989, is hereby postponed for a period of time not to exceed 6 months. The applicant is directed to initiate actions necessary to pursue the possibility of storage in the upper Geiger Creek watershed, and to report bi-monthly to the hearings referee on the status of its activities in this regard.

Signed and dated this 4th day of October, 1989.

Weisha Mize
Hearings Referee

Blosser -- How can we avoid flip-flops in OOFtW?

Lorna -- moved to go to public int. hearing } MSPU
DiDi 2nd ed

NEIL GOLDSCHMIDT
GOVERNOR

Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310 PHONE 378-3066

MEMORANDUM

TO: Water Resources Commission

FROM: Director why

SUBJECT: Agenda Item G, April 17, 1989, Water Resources Commission Meeting

Consideration for Approval of Applications R-69708 and 69654 to Store and Use Water from Bill Creek, Tributary to Bear Creek and Coquille River for Cranberry Irrigation, Temperature Control, Flood Harvesting and Irrigation, Windhurst Road Water Corporation, Coos County.

D JAKE -- Out-of-Basin Xfer -- water would be lost to the Coquille?

Background:

On June 30, 1988, and September 6, 1988, applications were submitted by Windhurst Road Water Corporation. Application R-69708 proposes to store up to 100 acre-feet of water in a reservoir that is 25 feet in height. Application 69654 outlines the use of up to 34.79 cubic feet per second from the reservoir and Bill Creek for cranberry operations. Plans and specifications will be required and approved before permits are issued.

The water will be used for cranberry irrigation (3.53 cfs), temperature control (21.20 cfs being 15.63 cfs for primary and 15.57 cfs for supplemental), cranberry flood harvesting (10 cfs) and irrigation (0.05 cfs). Temperature control includes both frost and heat control. The water for temperature control would be used during extreme weather conditions. According to the applicant, temperature control should not occur more than about five times a year. The amount listed for irrigation is for lawn and garden.

The question before the Commission is whether a hearing is required to determine if the public interest is served by granting permits for a structure that is greater than 10 feet high, stores more that 9.2 acre-feet of water and is for use of more than 5 cfs of water. The Commission's rules require that applications for dams greater than 10 feet in height or impounding more than 9.2 acre-feet of water [690-11-080 (2)(a)(C)] and applications for appropriations of greater than 5 cfs [690-11-080 (2)(a)(A)] must be referred to the Commission for a public interest determination under ORS 537.170.

In addition, the South Coast Basin Program requires that all applications for appropriation of water for storage in structures impounding more than 3,000,000 gallons of water shall be reviewed by the Commission prior to approval. During the review, the Commission may establish additional minimum flows on the natural flow of the stream to support aquatic life or minimize pollution.

Evaluation:

Notice of receipt of applications was provided to the public on July 8, 1988, for Application 69654 and September 9, 1988, for R-69708.

The proposed reservoir would be constructed as part of a plan to provide water to a new cranberry production area and to provide additional water to existing lands owned by the applicant. The dam will be a combination earth fill and flashboard structure with reinforced concrete abutments. The flashboards are intended to be placed in the structure in such a fashion that the water level would be raised slowly beginning in April of each year. The flashboards would be removed by November 1 of each year.

The Dam Safety Section must review the reservoir application because of the size requirements. The applicant has an engineer to develop plans and specifications.

Staff received comments from the watermaster. Based upon previous regulation in the area, the watermaster believes that sufficient water is available during the winter to fill the reservoir, but late season flows would need to be released in order to provide for downstream water uses. Stored water will be required during the summer. Some type of control gates would be needed in the structure in order to release summer flows to protect downstream uses of water. This would include minimum streamflows on the Coquille River.

In addition, the Oregon Department of Fish and Wildlife (ODFW) provided the following comments about the proposal:

Bill Creek is an important spawning and rearing habitat for coho, winter steelhead and searun and resident cuttroat trout. In addition, there are Salmon Trout Enhancement Program (STEP) projects on Bill Creek to enhance fish migration, spawning and rearing habitat.

According to ODFW, the flows in Bill Creek are adequate to satisfy this appropriation only during the moderate to high-flow periods during the winter months. ODFW is concerned that the proposed appropriation could adversely affect anadromous fish migration, spawning, and rearing. They mentioned that the requested flow would be detrimental to the public interest in maintaining wild fish population habitat.

As a result, the ODFW recommended that following flows (in cfs) be maintained in the stream:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
17	17	17	17	17	10	6	6	6	6	10/17	17

In order to determine what could be done to satisfy all concerned individuals, WRD Salem staff, the watermaster, ODFW Portland Office and the local district biologist, applicant and his consultant met in Coquille in December, 1988. The group also made a field inspection of the proposed site and met again in February, 1989, to discuss concerns identified from the earlier meeting.

The meeting was held in order to determine if the parties were willing to come to some sort of agreement that would protect fish life, provide late season water to the area, and provide sufficient water to the applicant. All parties agreed that some type of agreement could be reached that would benefit the stream system and provide water to the applicant.

Based upon discussions with the groups identified above, some possible conditions that would be placed upon the permits include:

1. requiring the applicants to develop a fill and release schedule to maintain a minimum reservoir level to allow for fish rearing;

2. installing control valves to allow water to be released during all times of the year;

3. installing pump screening;

4. allowing by-pass flows and develop an approved operation schedule; and

5. keeping woody debris in reservoir for fish cover and nutrients.

Those conditions would benefit the ODFW, the public and would allow the applicant the ability to store and use water. The use of stored water would be available to the stream during the late summer and would be available to the user. An agreement is being developed between the concerned groups. The STEP individuals on Bill Creek are aware of the review for the applications and are satisfied with the ongoing discussions.

The applicant intends to buy the property where the reservoir site is located and earnest money has been submitted. The land sale would not be concluded until permits are issued. The applicant does not want to spend money to purchase the land, design and build the reservoir unless all concerns can be adequately addressed and permits issued. Based upon the meetings which were held, it appears that a permit could be crafted that would meet all concerns and benefit the stream system. If a permit is issued, the agreement would be part of the permit. Since all parties have something to gain from this process, it would be beneficial to get an agreement. If an agreement cannot be reached, staff recommends that the applications be rejected to protect the fish resources in the stream and schedule the necessary contested case hearing to reject the applications.

Alternatives:

1. Find that the public interest may be injured by granting a permit to construct a structure that is greater than 10 feet high, stores more than 9.2 acre-feet and uses more than 5 cfs, and schedule a public interest hearing to assist the Commission in making its determination.

2. Determine that the public interest will not be injured by the storage and use of the quantity of water proposed; authorize the Director to issue permits with the appropriate conditions. Permit issuance would be contingent on receipt of a written agreement outlined above and signed by all parties, approval of plans and specifications for the reservoir and completion of the applications. The conditions will be identified in the agreement which is reached. If an agreement cannot be reached, staff recommends that the applications be rejected to protect the fish resources in the stream and schedule the necessary contested case hearing to reject the applications.

Director's Recommendation:

The staff recommends Alternative 2, that the Commission authorize the Director, if all parties agree in writing and the plans and specifications for the reservoir are approved, to issue permits with the appropriate conditions. The conditions will be identified in the agreement that is reached. Staff further recommends that if an agreement cannot be reached, the applications be rejected to protect the fish resources in the stream and schedule the necessary contested case hearing to reject the applications.

Attachments:

A) Copy of Application R-69708

B) Copy of Application 69654

C) Copy of location map

D) Copy of ODFW Letter

E) Copy of Watermaster Response

Jake Szramek
378-3066
February 2, 1989

cc: Wayne R. Scherer, Applicant
ODFW Portland Office
ODFW Field Office
Watermaster District 19
STEP Participants in Bandon Area

378-3739

STATE OF OREGON

WATER RESOURCES DEPARTMENT

Mill Creek Office Park • 555 13th. Street N.E.
Salem, Oregon 97310

RECEIVED FROM Wayne R. Scherer

Application ☑
Permit ☐
Transfer ☐ R-69708

TOTAL REC'D. $ 200.00 ☐ CASH ☑ CHECK ☐ MONEY ORDER

By _____

	EXAMINATION FEES:	RECORDING FEES:
Surface Water	$ 200.00	$ -0-
Ground Water	$	$
Transfer	$	$

MISCELLANEOUS FEES:

Copying ☐
Certification ☐
Misc. Recording ☐ $
Protest ☐
Extension of time ☐

ADJUDICATION FEE $

POWER LICENSE FEE $

HYDROELECTRIC LICENSE FEE $

EXAM FEE $

WATER WELL CONSTRUCTOR

Exam Fee ☐ License Fee ☐ $

LANDOWNER'S WATER WELL PERMIT FEE $

ALL OTHER: $

SUSPENSE TOTAL $ 200.00

BASIN MAPS $

QUADRANGLE ACCOUNT $

RECEIPT NO. 56038 Dated 9-6-88 By D. Acheson

INTERNATIONAL BUSINESS FORMS - EUGENE, OREGON 97401 83998

ATTACHMENT A

Application No. R 69708 Permit No.

STATE OF OREGON WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

I, WINDHURST ROAD WATER CORPORATION
(Name of Applicant)

of P. O. BOX 503 (Mailing Address), BANDON (City)

State of OREGON, 97411 (Zip Code), Phone No. 503/347-3062

do hereby make application for a permit to construct the Unnamed reservoir and to store the unappropriated waters of the State of Oregon, subject to existing rights.

1. The name of the stream from which the reservoir is to be filled is Bill Creek Tributary to Bear Creek tributary to Coquille River

2. If not in channel of a stream, state how it is to be filled. The dam will be in the channel of Bill Creek.

3. The dam will be located in the NE ¼ of the SW ¼ of Section 3, Township 29 South, Range 14 West W. M.

4. The maximum height will be 25 feet above stream bed or ground surface at the centerline. The top width will be 20 feet. slope of upstream face 3:1, slope of downstream face 2:1, and height of dam above water line when full 2.5 feet.

5. The dam will be (check one) X earthfill. ____ concrete. X flashboard. ____ other.

If "other", give description: See Item #12

6. Give the location, description, and dimensions of the outlet conduit: A 12" diameter PVC valved conduit through the left abutment.

(All dams across natural stream channels must be provided with an outlet conduit, of such capacity and location to pass the normal flow of the stream at any time)

Form 690-2-0-1-77

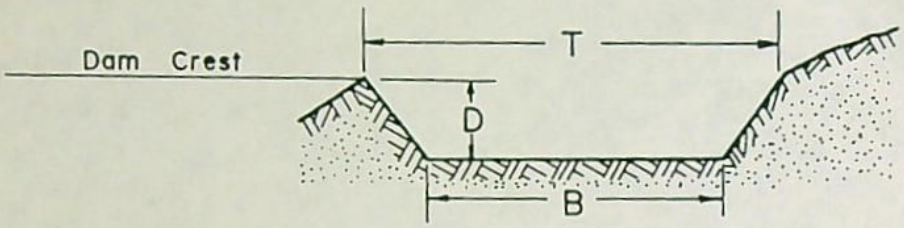
Application No. [illegible] *Permit No.*

7. The impounded water will be used for Cranberry irrigation, cranberry temperature control, cranberry flood harvest, and irrigation.

8. The amount of water to be stored is 100 *acre feet.*

9. The area submerged by the reservoir, when full, will be 10 *acres, and the maximum depth of water will be* 22 *feet.*

10. Give the location and dimensions of the spillway See item #12.
(State whether over or around dam)



The bottom width of the spillway, B, will be See item #12. *feet.*

The top width of the spillway, T, will be See item #12. *feet.*

The distance between the crest of the dam and the crest of the spillway, D, will be 2.5 *feet.*
(Must be at least 2½ feet)

If any other type of spillway describe and give dimensions:

See item #12.

11. Construction work will begin on or before October 1, 1989

12. Construction work will be completed and the reservoir filled by October 1, 1991

Remarks: The structure is intended to be a combination earth fill and flashboard. A reinforced concrete left abutment cast into bedrock, approximately 30 feet of flashboard structure, a right abutment, serving as a transition zone, and an earthfill structure anchoring the right abutment.

Excavation will be to bedrock throughout the length of the flashboard portion. Dowels will be embedded, and a reinforced concrete base will be constructed, extruding from bedrock to the approximate elevation of the bottom of the existing channel. In addition, reinforced concrete grade beams will intersect the base at right angles from downstream, at 8 to 10 feet centers, so as to provide the necessary support for several support brackets.

The flashboards are intended to be placed on about April 1st of each year, and removed on about November 1st of each year. The structure will store no water between November 1st and April 1st.

Engineering plans and specifications are being prepared by James F. Gosson, Civil Engineer, Roseburg, Oregon and will be forwarded for your review immediately upon their completion.

Wayne R. Scherer
Signature of Applicant

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

In order to retain its priority, this application must be returned to the Water Resources Director with corrections 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 6th day of September 19 88, at 8 o'clock a M.

Application No. R-69708 *Permit No.*

ATTACHMENT B

Application No. ..... Permit N

RECEIVED
JUN 30 1988
WATER RESOURCES DEPT
SALEM, OREGON

STATE OF OREGON WATER RESOURCES DEPARTMENT

Application for Permit to Appropriate Surface Water

I, WINDHURST ROAD WATER CORPORATION (Name of Applicant)

of P.O. BOX 503 (Mailing Address), BANDON (City)

State of OREGON, 97411 (Zip Code) Phone No. 503-347-3062 do hereby

make application for a permit to appropriate the following described waters of the State of Oregon:

1. The source of the proposed appropriation is BILL CREEK

....., a tributary of BEAR CREEK

2. The point of diversion is to be located 40 ft. S (N. or S.) and 2340 ft. E (E. or W.)

from the W 1/4 corner of SECTION 3 (Public Land Survey Corner)

.....

(If there is more than one point of diversion, each must be described)

.....

.....

..... being within the NE ¼ of the SW ¼ of

Sec. 3 Tp. 29S (N. or S.) R. 14W (E. or W.), W. M., in the county of COOS

3. Location of area to be irrigated, or place of use if other than irrigation.

Township	Range	Section	List ¼ ¼ of Section	List use and/or number of acres to be irrigated
		SEE ATTACHED SHEET		

Form 690-1-0-1-77

4. The amount of water which the applicant intends to apply to beneficial use is 34.79

cubic feet per second. BEING 10.0 CFS FOR FLOOD HARVEST, 21.20 CFS FOR TEMPERATURE CONTROL (15.65 CFS PRIMARY + 5.55 CFS SUPPLEMENTAL) & 3.53 CFS FOR CRANBERRY IRRIGATION (1.91 CFS PRIMARY + 1.62 SUPPLEMENTAL) + 0.05 CFS FOR IRRIGATION.

5. The use to which the water is to be applied is CRANBERRY IRRIGATION, CRANBERRY TEMPERATURE CONTROL, CRANBERRY FLOOD HARVEST, & IRRIGATION.

6. DESCRIPTION OF WORKS

Include dimensions and type of construction of diversion dam and headgate, length and dimensions of supply ditch or pipeline, size and type of pump and motor, type of irrigation system to adequately describe the proposed distribution system.

If for domestic use state number of families to be supplied NONE

7. Construction work will begin on or before 10-1-89

8. Construction work will be completed on or before 10-1-90

9. The water will be completely applied to the proposed use on or before 10-1-91

Application No. 69654 Permit No.

Remarks: TEMPERATURE CONTROL INCLUDES BOTH FROST CONTROL & HEAT CONTROL.

This permit, when issued, is for the beneficial use of water. 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 that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

Wayne R. Schurer
Signature of Applicant

PRESIDENT

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

In order to retain its priority, this application must be returned to the Water Resources Director with corrections on or before ....., 19.....

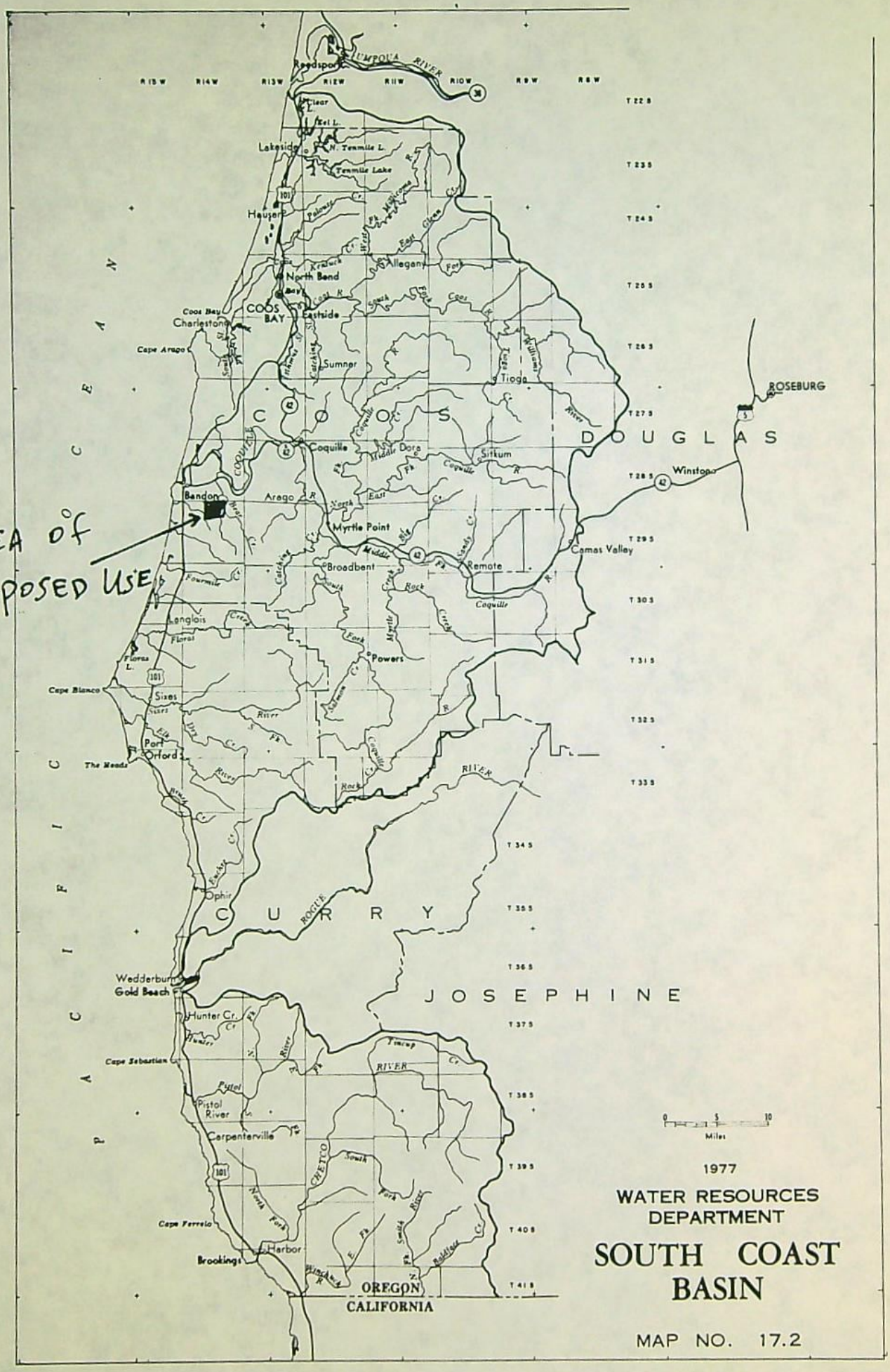
WITNESS my hand this ..... day of ....., 19.....

..... Water Resources Director

By .....

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 30th *day of* June, 19 88, *at* 11:30 *o'clock* A *M.*

Application No. 69654 *Permit No.*.....


AREA of PROPOSED USE
PACIFIC OCEAN
COOS
DOUGLAS
CURRY
JOSEPHINE
COOS BAY
Coos Bay
Charleston
Cape Arago
Eastside
North Bend
Lakeside
Reedsport
Bandon
Coquille
Myrtle Point
Broadbent
Powers
Sumner
Tioga
Sitkum
Winston
ROSEBURG
Camas Valley
Remote
Langlois
Sixes
Port Orford
Cape Blanco
The Heads
Gold Beach
Wedderburn
Hunter Cr.
Cape Sebastian
Pistol River
Carpenterville
Cape Ferrelo
Harbor
Brookings
OREGON
CALIFORNIA
Miles
1977
WATER RESOURCES DEPARTMENT
SOUTH COAST BASIN
MAP NO. 17.2

ATTACHMENT D

NEIL GOLDSCHMIDT
GOVERNOR

Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

September 2, 1988

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

Dear Jake:

Re: WRD 69654, Windhurst Road Water Corporation, Bill Creek, 34.79 cfs.

Bill Creek is a tributary to Bear Creek and the Coquille River near Bandon. The stream is important spawning and rearing habitat for coho, winter steelhead and searun and resident cutthroat trout. Current Salmon Trout Enhancement Program (STEP) projects on Bill Creek are enhancing fish migration, spawning and rearing habitat. The Oregon Department of Fish and Wildlife working with volunteer citizens has devoted considerable time and effort to enhance Bill Creek fish habitat.

Bill Creek has flows adequate to satisfy this appropriation only during the moderate to high flow periods during the winter months. The requested appropriation could adversely effect anadromous fish migration spawning, migration and rearing.

The ODFW believes issuance of this water right for the amount requested would be detrimental to the public interest in maintaining wild fish population habitat. Accordingly, ODFW recommends withholding issuance of this water right subject to maintaining the following minimum instream flows (cubic feet per second) at the point of diversion.

Jan	Feb	Mar	Apr	May	Jun	Aug	Sep	Oct	Nov	Dec
25	25	25	25	25	15	4	4	4/35	35	35

Unless the appropriation can be made subject to these restrictions, a substantial unresolved public interest issue is raised and this application should be referred for a contested case hearing under ORS 537.170 and 537.180.

Please advise us of your decision and thank you for the opportunity to comment.

Sincerely,

Gregory P. Robart
Staff Biologist
Aquatic Habitat Division

gpr

NEIL GOLDSCHMIDT
GOVERNOR

Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

September 23, 1988

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

Dear Jake:

Re: WRD 69654, Windhurst Road Water Corporation, Bill Creek, 34.79 cfs. ODFW letter of recommendation of September 2 1988.

Please correct a minimum flow recommendation error in subject letter.

Minimum flows should read:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
17	17	17	17	17	10	6	6	6	6	10/17	17

Thank you.

Sincerely,

Gregory P. Robart
Staff Biologist
Aquatic Habitats Division

gpr

ATTACHMENT E

WATER AVAILABILITY-SURFACE WATER APPLICATIONS

Name of Applicant Windhurst Road Water Corporati Application Number R-69708

1. **Is there a gaging station at or nearby the point of diversion for this application that gives a record of water supply?**

   Yes _____ No ✓

If yes, how long is the record? _____ years, from 19 ____ through 19 ____.

Does the record include any extremely low flows years?

Yes _____ No _____

If yes, list low flow years.

2. **Have any miscellaneous measurements been made at or near the point of diversion?**

   Yes _____ No ✓

If yes, list measured flows and dates.

3. **Has the stream or basin that is the source for this application ever been regulated for prior rights or minimum streamflows?**

   Yes _____ No ✓

If yes, explain by giving dates and rights involved.

4. **Do you observe this stream system in your routine, regular field work?**

   Yes _____ No ✓

If yes, list number of years of observation.

5. **Based on routine observation, do you think there would be enough water available in the quantity and at time needed to supply this application and do you think use may be made without harming vested and inchoate rights?** Surplus winter flows will likely be available to fill the reservoir

   Yes _____ No _____

If yes, what would you recommend for conditions for this permit.

rcvd 10-17-88

J. P. Drolet 10-17-88

WATER AVAILABILITY-SURFACE WATER APPLICATIONS

Name of Applicant Windhurst Road Water Corp. Application Number 69654

1. Is there a gaging station at or nearby the point of diversion for this application that gives a record of water supply?

Yes _____ No ✓

If yes, how long is the record? _____ years, from 19 ____ through 19 ____.

Does the record include any extremely low flows years?

Yes _____ No _____

If yes, list low flow years.

2. Have any miscellaneous measurements been made at or near the point of diversion?

Yes _____ No ✓

If yes, list measured flows and dates.

3. Has the stream or basin that is the source for this application ever been regulated for prior rights or minimum streamflows?

Yes _____ No ✓

If yes, explain by giving dates and rights involved.

4. Do you observe this stream system in your routine, regular field work?

Yes _____ No ✓

If yes, list number of years of observation.

5. Based on routine observation, do you think there would be enough water available in the quantity and at time needed to supply this application and do you think use may be made without harming vested and inchoate rights?

N/A

Yes _____ No _____

If yes, what would you recommend for conditions for this permit.

J. P. Drolet
WH Dist XIX
08-15-88

NEIL GOLDSCHMIDT
GOVERNOR

Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310 PHONE 378-3066

MEMORANDUM

TO: Water Resources Commission

FROM: Director

SUBJECT: Agenda Item G, April 17, 1989, Water Resources Commission Meeting

Consideration for Approval of Applications R-69708 and 69654 to Store and Use Water from Bill Creek, Tributary to Bear Creek and Coquille River for Cranberry Irrigation, Temperature Control, Flood Harvesting and Irrigation, Windhurst Road Water Corporation, Coos County.

Background:

On June 30, 1988, and September 6, 1988, applications were submitted by Windhurst Road Water Corporation. Application R-69708 proposes to store up to 100 acre-feet of water in a reservoir that is 25 feet in height. Application 69654 outlines the use of up to 34.79 cubic feet per second from the reservoir and Bill Creek for cranberry operations. Plans and specifications will be required and approved before permits are issued.

The water will be used for cranberry irrigation (3.53 cfs), temperature control (21.20 cfs being 15.63 cfs for primary and 15.57 cfs for supplemental), cranberry flood harvesting (10 cfs) and irrigation (0.05 cfs). Temperature control includes both frost and heat control. The water for temperature control would be used during extreme weather conditions. According to the applicant, temperature control should not occur more than about five times a year. The amount listed for irrigation is for lawn and garden.

The question before the Commission is whether a hearing is required to determine if the public interest is served by granting permits for a structure that is greater than 10 feet high, stores more that 9.2 acre-feet of water and is for use of more than 5 cfs of water. The Commission's rules require that applications for dams greater than 10 feet in height or impounding more than 9.2 acre-feet of water [690-11-080 (2)(a)(C)] and applications for appropriations of greater than 5 cfs [690-11-080 (2)(a)(A)] must be referred to the Commission for a public interest determination under ORS 537.170.

In addition, the South Coast Basin Program requires that all applications for appropriation of water for storage in structures impounding more than 3,000,000 gallons of water shall be reviewed by the Commission prior to approval. During the review, the Commission may establish additional minimum flows on the natural flow of the stream to support aquatic life or minimize pollution.

Evaluation:

Notice of receipt of applications was provided to the public on July 8, 1988, for Application 69654 and September 9, 1988, for R-69708.

The proposed reservoir would be constructed as part of a plan to provide water to a new cranberry production area and to provide additional water to existing lands owned by the applicant. The dam will be a combination earth fill and flashboard structure with reinforced concrete abutments. The flashboards are intended to be placed in the structure in such a fashion that the water level would be raised slowly beginning in April of each year. The flashboards would be removed by November 1 of each year.

The Dam Safety Section must review the reservoir application because of the size requirements. The applicant has an engineer to develop plans and specifications.

Staff received comments from the watermaster. Based upon previous regulation in the area, the watermaster believes that sufficient water is available during the winter to fill the reservoir, but late season flows would need to be released in order to provide for downstream water uses. Stored water will be required during the summer. Some type of control gates would be needed in the structure in order to release summer flows to protect downstream uses of water. This would include minimum streamflows on the Coquille River.

In addition, the Oregon Department of Fish and Wildlife (ODFW) provided the following comments about the proposal:

Bill Creek is an important spawning and rearing habitat for coho, winter steelhead and searun and resident cuttroat trout. In addition, there are Salmon Trout Enhancement Program (STEP) projects on Bill Creek to enhance fish migration, spawning and rearing habitat.

According to ODFW, the flows in Bill Creek are adequate to satisfy this appropriation only during the moderate to high-flow periods during the winter months. ODFW is concerned that the proposed appropriation could adversely affect anadromous fish migration, spawning, and rearing. They mentioned that the requested flow would be detrimental to the public interest in maintaining wild fish population habitat.

As a result, the ODFW recommended that following flows (in cfs) be maintained in the stream:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
17	17	17	17	17	10	6	6	6	6	10/17	17

In order to determine what could be done to satisfy all concerned individuals, WRD Salem staff, the watermaster, ODFW Portland Office and the local district biologist, applicant and his consultant met in Coquille in December, 1988. The group also made a field inspection of the proposed site and met again in February, 1989, to discuss concerns identified from the earlier meeting.

The meeting was held in order to determine if the parties were willing to come to some sort of agreement that would protect fish life, provide late season water to the area, and provide sufficient water to the applicant. All parties agreed that some type of agreement could be reached that would benefit the stream system and provide water to the applicant.

Based upon discussions with the groups identified above, some possible conditions that would be placed upon the permits include:

1. requiring the applicants to develop a fill and release schedule to maintain a minimum reservoir level to allow for fish rearing;

2. installing control valves to allow water to be released during all times of the year;

3. installing pump screening;

4. allowing by-pass flows and develop an approved operation schedule; and

5. keeping woody debris in reservoir for fish cover and nutrients.

Those conditions would benefit the ODFW, the public and would allow the applicant the ability to store and use water. The use of stored water would be available to the stream during the late summer and would be available to the user. An agreement is being developed between the concerned groups. The STEP individuals on Bill Creek are aware of the review for the applications and are satisfied with the ongoing discussions.

The applicant intends to buy the property where the reservoir site is located and earnest money has been submitted. The land sale would not be concluded until permits are issued. The applicant does not want to spend money to purchase the land, design and build the reservoir unless all concerns can be adequately addressed and permits issued. Based upon the meetings which were held, it appears that a permit could be crafted that would meet all concerns and benefit the stream system. If a permit is issued, the agreement would be part of the permit. Since all parties have something to gain from this process, it would be beneficial to get an agreement. If an agreement cannot be reached, staff recommends that the applications be rejected to protect the fish resources in the stream and schedule the necessary contested case hearing to reject the applications.

Alternatives:

1. Find that the public interest may be injured by granting a permit to construct a structure that is greater than 10 feet high, stores more than 9.2 acre-feet and uses more than 5 cfs, and schedule a public interest hearing to assist the Commission in making its determination.

2. Determine that the public interest will not be injured by the storage and use of the quantity of water proposed; authorize the Director to issue permits with the appropriate conditions. Permit issuance would be contingent on receipt of a written agreement outlined above and signed by all parties, approval of plans and specifications for the reservoir and completion of the applications. The conditions will be identified in the agreement which is reached. If an agreement cannot be reached, staff recommends that the applications be rejected to protect the fish resources in the stream and schedule the necessary contested case hearing to reject the applications.

Director's Recommendation:

The staff recommends Alternative 2, that the Commission authorize the Director, if all parties agree in writing and the plans and specifications for the reservoir are approved, to issue permits with the appropriate conditions. The conditions will be identified in the agreement that is reached. Staff further recommends that if an agreement cannot be reached, the applications be rejected to protect the fish rescurces in the stream and schedule the necessary contested case hearing to reject the applications.

Attachments:

A) Copy of Application R-69708

B) Copy of Application 69654

C) Copy of location map

D) Copy of ODFW Letter

E) Copy of Watermaster Response

Jake Szramek
378-3066
February 2, 1989

cc: Wayne R. Scherer, Applicant
ODFW Portland Office
ODFW Field Office
Watermaster District 19
STEP Participants in Bandon Area

ATTACHMENT A

Application No. R 69708 Permit No.

STATE OF OREGON WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

I, WINDHURST ROAD WATER CORPORATION
(Name of Applicant)

of P. O. BOX 503 (Mailing Address), BANDON (City)

State of OREGON, 97411 (Zip Code), Phone No. 503/347-3062

do hereby make application for a permit to construct the Unnamed reservoir and to store the unappropriated waters of the State of Oregon, subject to existing rights.

1. The name of the stream from which the reservoir is to be filled is Bill Creek Tributary to Bear Creek tributary to Coquille River

2. If not in channel of a stream, state how it is to be filled. The dam will be in the channel of Bill Creek.

3. The dam will be located in the NE ¼ of the SW ¼ of Section 3, Township 29 South, Range 14 West W. M.

4. The maximum height will be 25 feet above stream bed or ground surface at the centerline. The top width will be 20 feet. slope of upstream face 3:1, slope of downstream face 2:1, and height of dam above water line when full 2.5 feet.

5. The dam will be (check one) X earthfill, ____ concrete, X flashboard, ____ other.
If "other", give description: See Item #12

6. Give the location, description, and dimensions of the outlet conduit: A 12" diameter PVC valved conduit through the left abutment.
(All dams across natural stream channels must be provided with an outlet conduit, of such capacity and location to pass the normal flow of the stream at any time)

Form 690-2-0-1-77

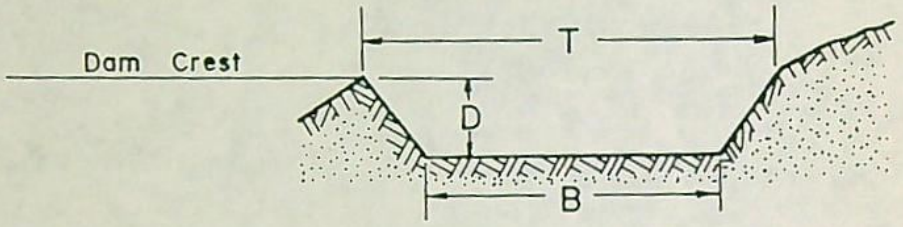
Application No. D-[illegible] *Permit No.*

7. The impounded water will be used for Cranberry irrigation, cranberry temperature control, cranberry flood harvest, and irrigation.

8. The amount of water to be stored is 100 *acre feet.*

9. The area submerged by the reservoir, when full, will be 10 *acres, and the maximum depth of water will be* 22 *feet.*

10. Give the location and dimensions of the spillway See item #12.
(State whether over or around dam)



The bottom width of the spillway, B, will be See item #12. *feet.*

The top width of the spillway, T, will be See item #12. *feet.*

The distance between the crest of the dam and the crest of the spillway, D, will be 2.5 *feet.*
(Must be at least 2½ feet)

If any other type of spillway describe and give dimensions:

See item #12.

11. Construction work will begin on or before October 1, 1989

12. Construction work will be completed and the reservoir filled by October 1, 1991

Remarks: The structure is intended to be a combination earth fill and flashboard. A reinforced concrete left abutment cast into bedrock, approximately 30 feet of flashboard structure, a right abutment, serving as a transition zone, and an earthfill structure anchoring the right abutment.

Excavation will be to bedrock throughout the length of the flashboard portion. Dowels will be embedded, and a reinforced concrete base will be constructed, extruding from bedrock to the approximate elevation of the bottom of the existing channel. In addition, reinforced concrete grade beams will intersect the base at right angles from downstream, at 8 to 10 feet centers, so as to provide the necessary support for several support brackets.

The flashboards are intended to be placed on about April 1st of each year, and removed on about November 1st of each year. The structure will store no water between November 1st and April 1st.

Engineering plans and specifications are being prepared by James F. Gosson, Civil Engineer, Roseburg, Oregon and will be forwarded for your review immediately upon their completion.

Wayne R. Scherer
Signature of Applicant

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

In order to retain its priority, this application must be returned to the Water Resources Director with corrections 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 6th day of September 19 88, *at* 8 *o'clock* a *M.*

Application No. L-69708 *Permit No.*.....

Application No. ..... Permit N

ATTACHMENT B

RECEIVED
JUN 30 1988
WATER RESOURCES DEPT
SALEM, OREGON

STATE OF OREGON WATER RESOURCES DEPARTMENT

Application for Permit to Appropriate Surface Water

I, WINDHURST ROAD WATER CORPORATION (Name of Applicant)

of P.O. BOX 503 (Mailing Address), BANDON (City)

State of OREGON, 97411 (Zip Code) Phone No. 503-347-3062 do hereby

make application for a permit to appropriate the following described waters of the State of Oregon:

1. The source of the proposed appropriation is BILL CREEK

....., a tributary of BEAR CREEK

2. The point of diversion is to be located 40 ft. S (N. or S.) and 2340 ft. E (E. or W.)

from the W 1/4 corner of SECTION 3 (Public Land Survey Corner)

(If there is more than one point of diversion, each must be described)

being within the NE ¼ of the SW ¼ of

Sec. 3 Tp. 29S (N. or S.) R. 14W (E. or W.), W. M., in the county of COOS

3. Location of area to be irrigated, or place of use if other than irrigation.

Township	Range	Section	List ¼ ¼ of Section	List use and/or number of acres to be irrigated
		SEE ATTACHED SHEET		

Form 690-1-0-1-77

4. The amount of water which the applicant intends to apply to beneficial use is 34.79

cubic feet per second BEING 10.0 CFS FOR FLOOD HARVEST, 21.20 CFS FOR TEMPERATURE CONTROL (15.63 CFS PRIMARY + 5.57 CFS SUPPLEMENTAL) 3.53 CFS FOR CRANBERRY IRRIGATION (1.91 CFS PRIMARY + 1.62 SUPPLEMENTAL) + 0.05 CFS FOR IRRIGATION.

5. The use to which the water is to be applied is CRANBERRY IRRIGATION, CRANBERRY TEMPERATURE CONTROL, CRANBERRY FLOOD HARVEST, & IRRIGATION.

6. DESCRIPTION OF WORKS

Include dimensions and type of construction of diversion dam and headgate, length and dimensions of supply ditch or pipeline, size and type of pump and motor, type of irrigation system to adequately describe the proposed distribution system.

If for domestic use state number of families to be supplied NONE

7. Construction work will begin on or before 10-1-89

8. Construction work will be completed on or before 10-1-90

9. The water will be completely applied to the proposed use on or before 10-1-91

Application No. 69654 Permit No.

Remarks: TEMPERATURE CONTROL INCLUDES BOTH FROST CONTROL & HEAT CONTROL.

This permit, when issued, is for the beneficial use of water. 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 that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

Wayne R. Schurer
Signature of Applicant

PRESIDENT

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

In order to retain its priority, this application must be returned to the Water Resources Director with corrections on or before ....., 19.....

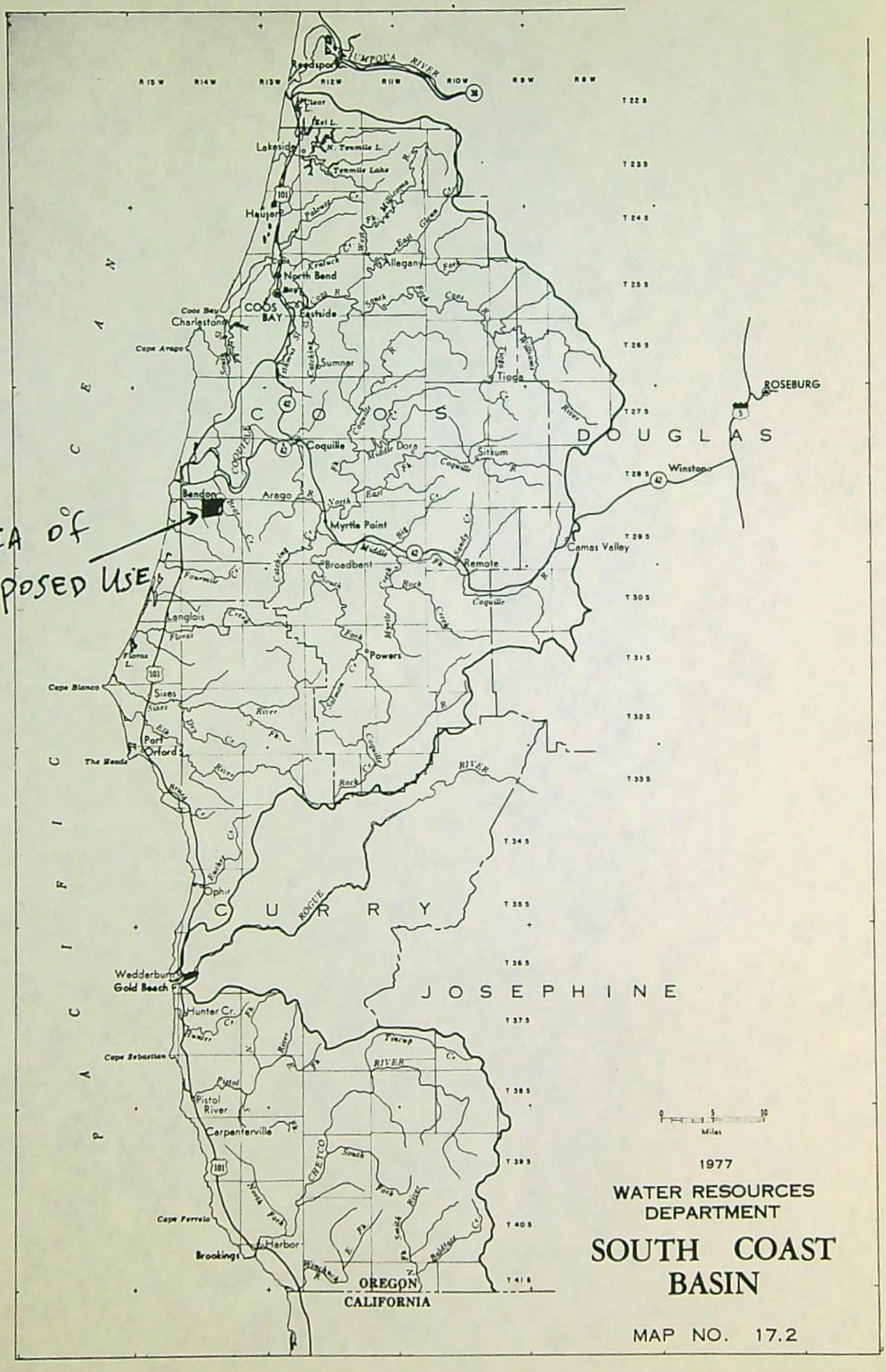
WITNESS my hand this ..... *day of*....., 19.....

..... *Water Resources Director*

By .....

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 30th *day of* June, 19 88, *at* 11:30 *o'clock* A *M.*

Application No. 69654 *Permit No.*.....


AREA of
PROPOSED USE
PACIFIC OCEAN
COOS
DOUGLAS
CURRY
JOSEPHINE
COOS BAY
Reedsport
Lakeside
Hauser
North Bend
Coos Bay
Charleston
Cape Arago
Bandon
Coquille
Myrtle Point
Broadbent
Powers
Port Orford
The Heads
Cape Blanco
Gold Beach
Wedderburn
Ophir
Cape Sebastian
Pistol River
Carpenterville
Cape Ferrelo
Brookings
Harbor
Tioga
Sumner
Dora
Sitkum
Remote
Camas Valley
Winston
ROSEBURG
OREGON
CALIFORNIA
0 5 10
Miles
1977
WATER RESOURCES DEPARTMENT
SOUTH COAST BASIN
MAP NO. 17.2

NEIL GOLDSCHMIDT
GOVERNOR

Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

September 2, 1988

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

Dear Jake:

Re: WRD 69654, Windhurst Road Water Corporation, Bill Creek, 34.79 cfs.

Bill Creek is a tributary to Bear Creek and the Coquille River near Bandon. The stream is important spawning and rearing habitat for coho, winter steelhead and searun and resident cutthroat trout. Current Salmon Trout Enhancement Program (STEP) projects on Bill Creek are enhancing fish migration, spawning and rearing habitat. The Oregon Department of Fish and Wildlife working with volunteer citizens has devoted considerable time and effort to enhance Bill Creek fish habitat.

Bill Creek has flows adequate to satisfy this appropriation only during the moderate to high flow periods during the winter months. The requested appropriation could adversely effect anadromous fish migration spawning, migration and rearing.

The ODFW believes issuance of this water right for the amount requested would be detrimental to the public interest in maintaining wild fish population habitat. Accordingly, ODFW recommends withholding issuance of this water right subject to maintaining the following minimum instream flows (cubic feet per second) at the point of diversion.

Jan	Feb	Mar	Apr	May	Jun	Aug	Sep	Oct	Nov	Dec
25	25	25	25	25	15	4	4	4/35	35	35

Unless the appropriation can be made subject to these restrictions, a substantial unresolved public interest issue is raised and this application should be referred for a contested case hearing under ORS 537.170 and 537.180.

Please advise us of your decision and thank you for the opportunity to comment.

Sincerely,

Gregory P. Robart
Staff Biologist
Aquatic Habitat Division

gpr

NEIL GOLDSCHMIDT
GOVERNOR

Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

September 23, 1988

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

Dear Jake:

Re: WRD 69654, Windhurst Road Water Corporation, Bill Creek, 34.79 cfs. ODFW letter of recommendation of September 2 1988.

Please correct a minimum flow recommendation error in subject letter.

Minimum flows should read:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
17	17	17	17	17	10	6	6	6	6	10/17	17

Thank you.

Sincerely,

Gregory P. Robart
Staff Biologist
Aquatic Habitats Division

gpr

ATTACHMENT E

WATER AVAILABILITY-SURFACE WATER APPLICATIONS

Name of Applicant Windhurst Road Water Corporation Application Number R-69708

1. **Is there a gaging station at or nearby the point of diversion for this application that gives a record of water supply?**

   Yes _____ No ✓

If yes, how long is the record? _____ years, from 19 ____ through 19 ____.

Does the record include any extremely low flows years?

Yes _____ No _____

If yes, list low flow years.

2. **Have any miscellaneous measurements been made at or near the point of diversion?**

   Yes _____ No ✓

If yes, list measured flows and dates.

3. **Has the stream or basin that is the source for this application ever been regulated for prior rights or minimum streamflows?**

   Yes _____ No ✓

If yes, explain by giving dates and rights involved.

4. **Do you observe this stream system in your routine, regular field work?**

   Yes _____ No ✓

If yes, list number of years of observation.

5. **Based on routine observation, do you think there would be enough water available in the quantity and at time needed to supply this application and do you think use may be made without harming vested and inchoate rights?** Surplus winter flows will likely be available to fill the reservoir

   Yes _____ No _____

If yes, what would you recommend for conditions for this permit.

rcv'd 10-17-88

J. P. Drolet 10-17-88

WATER AVAILABILITY-SURFACE WATER APPLICATIONS

Name of Applicant Windhurst Road Water Corp. Application Number 69654

1. Is there a gaging station at or nearby the point of diversion for this application that gives a record of water supply?

Yes _____ No ✓

If yes, how long is the record? _____ years, from 19 ____ through 19 ____.

Does the record include any extremely low flows years?

Yes _____ No _____

If yes, list low flow years.

2. Have any miscellaneous measurements been made at or near the point of diversion?

Yes _____ No ✓

If yes, list measured flows and dates.

3. Has the stream or basin that is the source for this application ever been regulated for prior rights or minimum streamflows?

Yes _____ No ✓

If yes, explain by giving dates and rights involved.

4. Do you observe this stream system in your routine, regular field work?

Yes _____ No ✓

If yes, list number of years of observation.

5. Based on routine observation, do you think there would be enough water available in the quantity and at time needed to supply this application and do you think use may be made without harming vested and inchoate rights?

N/A

Yes _____ No _____

If yes, what would you recommend for conditions for this permit.

J. P. Drolet
WH Dist XIX
08-15-88

BEFORE THE WATER POLICY REVIEW BOARD

OF THE

STATE OF OREGON

In the matter of formulating an integrated, coordinated program for the use and control of the water resources of the State of Oregon	)))))	South Coast Basin September 25, 1984*

Under ORS 536.300 the Water Policy Review Board is directed to study and formulate programs for the use and control of the water resources of this state. A water resource program for the South Coast Basin as delineated on the Water Resources Department Map, File 17.6, was adopted on May 22, 1964, and modified on May 20, 1977, January 19, 1979 and April 1, 1980.

As provided by Chapter 536, Oregon Revised Statutes, the Water Policy Review Board has restudied the water resources of the South Coast Basin and has reached the following findings and conclusions:

1. Less than one percent of the average annual streamflow is estimated to occur during the months of August and September. The seasonal distribution of the resource is and will continue to be the major water supply problem in the basin.

2. There are potential water storage sites in the basin that could be developed to augment water supplies.

3. Ground water quality in the South Coast Basin is generally good but is characterized by high iron and manganese concentrations and moderate hardness.

4. Bacterial and viral contamination caused by improper sub-surface sewage disposal and poor well construction practices exists but is not widespread.

5. Ground water is a significant factor in the maintenance of natural lakes in the dunes area. Extensive ground water development may affect lake water levels.

6. On an annual basis, there is enough surface water for all present and future municipal needs in the basin.

7. Seasonal municipal water supply shortages will be a significant future problem in the South Coast Basin.

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* Modifies South Coast Basin Programs dated May 22, 1964; May 20, 1977; January 12, 1979; April 1, 1980 and May 8, 1981.

8. Development of municipal water supplies in storage reservoirs could meet existing and projected municipal needs.

9. Ground water could be used to supplement some municipal water supplies.

10. Ground water resources in the marine terrace deposits east, north and northwest of the City of Port Orford may be sufficient to augment existing municipal supplies.

11. Aquifers in the marine terrace deposit on both sides of the Coquille River may be capable of producing ground water for the City of Bandon. The dune complex extending from Bullards Beach State Park northward appears to offer the greatest potential for municipal supplies.

12. Ground water resources in the North Bend / Coos Bay area appear to be largely limited to the dune complex and are currently being developed as a municipal water source. The potential for further development of this source is presently being studied.

13. Ground water resources in aquifers near Langlois, Coquille, Myrtle Point and Lakeside may be sufficient to augment existing supplies for those communities.

14. Selected natural lakes could be used to supplement existing municipal water supplies. Restrictions on the amount of water withdrawn may be desirable to preserve the esthetic quality of the lakes. Outlet control structures may be necessary to protect lake levels.

15. The waters of Clear Lake, Edna Lake, Ferry Creek and Geiger Creek were withdrawn for municipal use under Orders of the State Engineer.

16. Livestock, dairying, cranberries and flower bulbs are major agricultural endeavors.

17. Irrigation water shortages occur during the summer months annually on many streams throughout the South Coast Basin. Lack of surface water may deter further agricultural development in the South Coast Basin unless adequate reservoir storage is developed.

18. The existing irrigated acreage is small compared to the potentially irrigable acreage in the South Coast Basin.

19. The total extent of the ground water supply in the basin has not been determined. Existing data suggest ground water supplies are limited and would not support irrigation in most areas.

20. Marine terrace deposits and sediments of the Coquille formation are potential ground water sources for irrigation of cranberries in the Bandon area.

21. Marine terrace deposits in the Harbor area are capable of producing large quantities of water, but some areas are approaching levels of sustained yield.

22. Expansion of irrigated agriculture in the Basin will depend on development of adequate water supplies and market conditions.

23. Salt water intrusion from the Pacific Ocean forces curtailment of irrigation in the lower Coquille and Coos River valleys during periods of low flow.

24. Camas Valley, near the upper Middle Fork Coquille River, annually experiences a summer shortage of domestic and agricultural water. There is not sufficient natural flow during summer in the Middle Fork Coquille River to alleviate the summer water shortage in Camas Valley. Total annual flow is sufficient to relieve shortages if storage facilities were available to retain excess winter flows.

25. Water for temperature control for agricultural purposes is presently a significant use only in the cranberry-growing areas near Bandon, but is increasing in the Harbor Beach area.

26. Water is also used for agricultural harvesting and land preparation in the Basin.

27. Forest products and food processing are the major water-using industries in the Basin.

28. Most industry is concentrated in the Coos Bay / North Bend area and is supplied by the municipal system.

29. Some industrial users have been affected by seasonal water supply shortages. Lack of surface water may deter industrial development in the South Coast Basin, unless adequate reservoir storage is developed.

30. Seafood processing plants are the largest industrial water users in many basin communities.

31. No large mines are known to be currently active, although known coal deposits exist in the Coos Bay area and at Eden Ridge.

32. There is little information on future water needs for mining.

33. Domestic water supplies for residences outside of municipal or group domestic service areas are from wells, springs and streams. In many cases, these sources are inadequate and subject to pollution.

34. Regional water systems could improve the quality and quantity of domestic water supplies in some aras.

35. Although shortages may occur at specific locations, there is generally water of sufficient quantity and quality in the South Coast Basin for both existing and projected livestock use.

36. There are no major hydroelectric installations in the Basin.

37. The greatest potential for hydroelectric development in the Basin is on the upper South Fork Coquille River.

38. Hydroelectric generation may also be feasible on other streams in the basin.

39. Income from water-related recreation is a major contributor to the economy of the South Coast Basin.

40. The natural lakes, storage reservoirs and free-flowing streams support part of the water-based recreational use.

41. Most of the dunes area north of Coos Bay has been designated as a national recreation area.

42. The water resources, wetlands and associated habitat are critical to the subsistence and propagation of wildlife in the Basin.

43. The coastal streams support resident and anadromous species of fish.

44. The fish resources of the South Coast Basin are significant to the State of Oregon.

45. Adequate streamflow throughout the year is necessary for the maintenance of aquatic life in the coastal streams.

46. Low summer streamflow in many Basin streams is one factor limiting production of salmonids.

47. Summer flows in some streams will not support recommended minimum flows.

48. Multiple-purpose storage could be used to enhance aquatic life by augmenting streamflows and providing some water temperature control at critical times.

49. Flooding occurs frequently on many streams throughout the South Coast Basin.

50. There are presently no flood retention structures in the Basin, although localized flood protection is provided by dikes on some streams.

51. Flood plain management and watershed treatment measures may reduce flood damages in some areas.

52. South Coast river systems above the estuaries are relatively free of organic pollution although surface sources may require some treatment for human consumption.

53. Siltation and high water temperatures occur at various times of the year in a number of Basin streams, adversely affecting instream uses.

54. Drainage is a problem in many areas, primarily affecting agricultural lands.

55. The Coquille River estuary is important in the life cycle of several anadromous fish species including runs of coho, chum and chinook salmon, steelhead, cutthroat trout, shad and striped bass.

56. The Coquille River has water quality problems caused by point and non-point sources of pollution and low flows.

57. Specific flow needs to support aquatic life in the lower Coquille River have not been determined, but are believed to be significantly higher than the flows required for effluent dillution.

58. Maintenance of established minimum flow regimes to the mouth of the Coquille River is more appropriate for the support of aquatic life than flow rates proposed for water quality.

NOW THEREFORE BE IT RESOLVED that the Water Policy Review Board hereby adopts the following revised program in accordance with the provisions of ORS 536.210 to ORS 536.590 pertaining to the water resources of the South Coast Basin as delineated on Water Resources Department Map, File 17.6;

I. Ground water resources in sections or the portions of Sections 13, 14, 22, 23, 26, 27, 32, 33 and 34 of Township 23 South, Range 13 West; 2, 3, 4, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 27, 28, 29, 31, 32, 33 and 34 of Township 24 South, Range 13 West; and 3, 4, 5 and 6 of Township 25 South, Range 13 West, bounded on the north by Tenmile Creek, on the west by the Pacific Ocean, on the south by Coos Bay and on the east by Highway 101 are hereby classified for single or group domestic, livestock, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and any single industrial or commercial use not exceeding 5,000 gallons per day.

II. The waters of the following lakes are classified only for domestic livestock, municipal, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife. The Director of the Water Resources Department may place specific limits on municipal appropriations from the lakes or require outlet control structures to protect recreation, fish life and wildlife uses:

A. Bradley Lake
B. Eel Lake
C. Garrison Lake

III. All other natural lakes are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife.

IV. Waters of the following streams and all tributaries are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area, fire control and instream use for recreation, fish life and wildlife.

A. Glenn Creek (tributary to the East Fork Millicoma River)

B. Brush Creek

V. The waters of the Middle Fork of the Coquille River and tributaries upstream from the confluence with Holmes Creek are classified only for domestic, livestock and irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife during the period from July 1 to September 30 of every year. Water stored between October 1 and June 30 may be used at any time for purposes specified in paragraph VIII.

VI. The waters of the West Fork Milicoma River and tributaries above Stall Falls are classified for municipal, domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife.

VII. The waters of Pony Creek above lower Pony Creek Dam and Ferry and Geiger Creeks above the Ferry Creek - Geiger Creek confluence are classified for municipal use.

VIII. All other surface and ground water resources are hereby classified for domestic, livestock, municipal, industrial, fire control, irrigation, agricultural use, mining, power development, recreation, wildlife and fish life uses.

IX. Water in the amounts specified is reserved in the following streams for municipal use:

A. Chetco River - three cfs, downstream from the confluence with the North Fork Chetco River

B. Winchuck River - one cfs, downstream from the confluence with Bear Creek

X. For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses and irrigation of noncommercial gardens not exceeding one-half acre in area shall be allowed for the waters of the streams and tributaries listed in Table 1 when flows are below the specified levels.

A. The Water Policy Review Board requests the opportunity to review applications for an allowed beneficial use that has traditionally been identified as nonconsumptive or take-and-put, such as fish hatcheries, hydroelectric facilities, municipal or water process industries that could potentially impact, in an adverse way, the Board's minimum flow regime or the public interest. The Water Policy Review Board intends to continue to protect, in its entirety, that portion of the stream system on which any minimum streamflow has been established. Permitting procedures and water use regulation should reflect that objective as far as possible under the law. The Board solicits the advice or complaints of any party who is aware that the objectives are not being met.

B. Minimum flows established in the Water Resource Program for the South Coast Basin dated May 22, 1964 (Table 3), shall remain in full force and effect except as follows:

1. The minimum perennial streamflow for the Elk River above U.S. Highway 101 crossing (45 cfs) is rescinded.

2. The minimum perennial streamflow for the Coquille River Middle Fork above Bear Creek (4 cfs) is rescinded.

3. The minimum perennial streamflow for the Sixes River above the U.S. Highway 101 crossing is reduced to 25 cfs during the period from August 1 to September 30.

4. The minimum perennial streamflow for the South Fork Coquille River near Powers is reduced to 15 cfs during the period from June 16 to September 30.

For purposes of distributing water, minimum flows established in 1964 shall be considered part of and not in addition to revised minimum flow regimes.

C. To support aquatic life and minimize pollution, in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriations of water shall be made or granted by any state agency or public corporation of the state for the waters of the Coquille River and tributaries when flows are below the specified levels in Table 2. This limitation shall not apply to:

1. Domestic and livestock uses and irrigation of non-commercial gardens not exceeding 1/2 acre in area.

2. Water legally released from storage.

D. All applications for appropriation of water for storage in structures impounding more than 3,000,000 gallons of water shall be reviewed by the Water Policy Review Board prior to approval. During the review the Water Policy Review Board may establish additional minimum flows on the natural flow of the stream to support aquatic life or minimize pollution.

XI. The following reservoir sites should be protected through the comprehensive planning process for possible future development or until alternative methods of meeting water needs have been developed:

A. West Fork of the Millicoma River, site 223.
B. South Fork of Coquille River at Eden Ridge, site 430.
C. North Fork Coquille River, site 146A
D. Rock Creek at Rasler Creek, site 201.
E. Catching Creek, site 101.
F. Fourmile Creek, site 158.
G. North Fork Floras Creek at Okietown, site 435.
H. North Fork Chetco River, site 239.
I. Wheeler Creek, site 241.
J. East Fork Winchuck River, site 243.
K. Joe Ney Slough.

XII. Applications for the use of water for any purposes contrary to classifications specified in the basin program shall not be accepted or granted except as provided by law. The Director shall notify the Board and other interested individuals or agencies of the intent to accept an application for use in conflict with the adopted program in accordance with ORS 536.380 if the proposed use will not have a significant impact on any other water use as provided in Section I through XI of this program.

XIII. The planning, construction and operation of any structures or works for the utilization of water in accordance with the aforementioned classifications are to conform with the applicable provisions of ORS 536.310, including but not restricted to the recommendation of the multiple-purpose concept.

XIV. No out-of-basin diversion of South Coast Basin water shall be made or granted by any state agency or public corporation of the state without the prior approval of, and following a public hearing by, the Water Policy Review Board.

XV. Water rights and permits issued prior to the effective date of this program shall not be affected except as provided in Section X.

Done and dated this 25th day of September 1984.

WATER POLICY REVIEW BOARD

Ralf Hakanson

Ralf Hakanson, Chairman

4935A

TABLE 1
Minimum Perennial Streamflows (cfs)

Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
Winchuck River: at USGS WRD gage 14400200 (SW 1/4 SE 1/4 Section 24, Township 41 South, Range 13 West)												
20	20	20	20	20	20	20	20	20	20	20	20	5-22-64
30/150*	150*	150*	120*	120*	120*	120*	120*	80/30*	20*	20*	20*	4-1-80
Chetco River: below North Fork Chetco River and maintained to tidewater**												
80	80	80	80	80	80	80	80	80	80	80	80	5-22-64
200/450*	450*	450*	350*	350*	350*	350*	350*	200/100*	80*	80*	80*	4-1-80
Pistol River: below Deep Creek and maintained to tidewater**												
15	15	15	15	15	15	15	15	15	15	15	15	5-22-64
40*	40/255*	255*	255/230*	230*	230*	230*	230*	100/30*	30*	20*	20*	4-1-80
Hunter Creek: below Little South Fork and maintained to tidewater**												
7	7	7	7	7	7	7	7	7	7	7	7	5-22-64
15/125*	125*	125*	100*	100*	100*	100*	100*	70/50*	7*	7*	7*	4-1-80
Euchre Creek: below Cedar Creek and maintained to tidewater**												
10	10	10	10	10	10	10	10	10	10	10	10	5-22-64
15/120*	120*	120*	120/80*	80*	80*	80*	80*	60/15*	10*	10*	10*	4-1-80
Elk River: at WRD gage 14327250 (SW 1/4 SE 1/4 Section 6, Township 33 South, Range 14 West) and maintained to tidewater**												
60/150	300	300	300	300/225	225	225	225	80/45	45	45	45	4-1-80
Sixes River: below Edson Creek and maintained to tidewater**												
30	30	30	30	30	30	30	30	30	30	25	25	5-22-64
40/215*	215*	215*	215*	215/190*	190*	190*	190*	120/40*	40*	25*	25*	4-1-80
Flores Creek: at Highway 101 bridge and maintained to tidewater**												
5	5	5	5	5	5	5	5	5	5	5	5	5-22-64
20/120*	120*	120*	120/100*	100*	100*	100*	100*	70/20*	10*	5*	5*	4-1-80
North Fork Coquille River: below Neeley Creek and maintained to above Whitley Creek												
8	8	8	8	8	8	8	8	8	8	8	8	5-22-64
North Fork Coquille River: at former USGS gage 735 (NW 1/4 Section 36, Township 28 South, Range 12 West) and maintained to the mouth												
26	26	26	26	26	26	26	26	26	26	26	26	5-22-64
100/180*	180*	180*	180/160*	160*	160*	160*	160*	100/50*	26*	26*	26*	4-1-80
Middle Creek tributary to North Fork Coquille: River: below Cherry Creek and maintained to mouth												
40	70	70	70	70	70	70	55	20	10	10	10	4-1-80
East Fork Coquille River: above the East Fork Coquille River - China Creek confluence												
10	10	10	10	10	10	10	10	10	10	10	10	5-22-64
35/95*	95*	95*	95/75*	75*	75*	75*	75*	50/15*	10*	10*	10*	4-1-80
East Fork Coquille River: below Elk Creek and maintained to mouth												
60/110	110	110	110/95	90	90	90	90	70/25	25	15	15/20	4-1-80
Middle Fork Coquille River: above Twelvemile Creek												
20/50	50	50	50/35	35	35	35	35	25/8				4-1-80

* Earlier priority date for all or a portion of the indicated flow.
** Sand bars prevent direct surface flow to the ocean of many South Coast Basin streams at times. During such periods minimum flows shall apply to the head of the pools formed by the sand bars.

TABLE 1 (continued)
Minimum Perennial Streamflows (cfs)

Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
Middle Fork Coquille River: above the Middle Fork Coquille River - Sandy Creek confluence												
10	10	10	10	10	10	10	10	10	10	10	10	5-22-64
40/110*	110*	110*	110/100*	100*	100*	100*	100*	70/25*	10*	10*	10*	4-1-80
Middle Fork Coquille River: above former USGS gage 737 (NW 1/4 SE 1/4 Section 26, Township 29 South, Range 12 West) and maintained to mouth												
15	15	15	15	15	15	15	15	15	15	15	15	5-22-64
50/175*	175*	175*	175/155*	155*	155*	155*	155*	100/40*	15*	15*	15*	4-1-80
South Fork Coquille River: at USGS - WRD Gage 14825000 (SE 1/4 Section 12, Township 31 South, Range 12 West)												
22	22	22	22	22	22	22	22	22/15	15	15	15	5-22-64
60*	90*	70*	70*	70*	70*	70*	70*	40/15*	15*	15*	15*	4-1-80
South Fork Coquille River: at tidewater												
200	200	180	180	180	180	180	180	100/45	45	45	45	4-1-80
South Fork Coos River: at tidewater												
30	30	30	30	30	30	30	30	30	30	30	30	5-22-64
100/150*	150*	150*	150*	150*	150*	150*	150*	100/40*	40*	30*	30/40*	4-1-80
Williams River: below Bottom Creek and maintained to mouth												
10	10	10	10	10	10	10	10	10	10	10	10	5-22-64
80*	90*	90*	90*	90*	90*	90*	90*	60/30*	30*	15*	15/20*	4-1-80
Tioga Creek: below Shotgun Creek and maintained to mouth												
4	4	4	4	4	4	4	4	4	4	4	4	5-22-64
20/50*	60*	70*	60*	60*	60*	60*	60*	30/10*	10*	5*	5*	4-1-80
East Fork Millicoma River: above Matson Creek												
12	40/60	60	60	60	60	60	60	20/10	10	5	5	4-1-80
East Fork Millicoma River: at mouth												
15	15	15	15	15	15	15	15	15	15	15	15	5-22-64
50/150*	150*	150*	130*	130*	130*	130*	130*	80/20*	20*	15*	15*	4-1-80
West Fork Millicoma River: below Deer Creek												
15/50	60	60	60	60	60	60	60	25/10	10	5	5	4-1-80
West Fork Millicoma River: at mouth												
6	6	6	6	6	6	6	6	6	6	6	6	5-22-64
35/100*	100*	90*	90*	90*	90*	90*	90*	60/20*	20*	10*	10*	4-1-80
Daniels Creek: below Morgan Creek												
12	20	20	20	20	20	20	20	10	3	3	3	4-1-80
Larson Creek: at tidewater												
10/15	15	15	15	15	15	15	15	10	2	2	2	4-1-80
Palouse Creek: at tidewater												
10/15	15	15	15	15	15	15	15	10	2	2	2	4-1-80
Roberts Creek: above confluence with Johnson Creek												
7/10	10	10	10	10	10	10	10	7	1	1	1	4-1-80

* Earlier priority date for all or a portion of the indicated flow.

TABLE 3

MINIMUM PERENNIAL STREAMFLOWS

Adopted May 22, 1964

AS AMENDED April 1, 1980

1. Winchuck River or its tributaries above the U.S. Highway 101 crossing for flows of the Winchuck River below 20 cubic feet per second measured at a point between the U.S. Highway 101 crossing and the Winchuck River - Moser Creek confluence.

2. The Chetco River or its tributaries above the Chetco River - Chetco River North Fork confluence for flows of the Chetco River below 80 cubic feet per second measured at a point between said confluence and the Chetco River - Glen Brook confluence.

3. The Pistol River or its tributaries above the Pistol River - Cook Creek confluence for flows of the Pistol River below 15 cubic feet per second measured at a point between said confluence and 1.0 miles above said confluence.

4. Hunter Creek or its tributaries above U.S. Highway 101 crossing for flows of the Hunter Creek below 7 cubic feet per second measured at a point between U.S. Highway 101 crossing and 2.0 miles above said crossing.

5. Euchre Creek or its tributaries for flows of the Euchre Creek below 10 cubic feet per second measured at a point between the mouth and the Euchre Creek - Cedar Creek confluence.

6. The Sixes River or its tributaries above the U.S. Highway 101 crossing for flows of the Sixes River below 30 cubic feet per second measured at a point between U.S. Highway 101 crossing and the Sixes River - Beaver Creek confluence. (25 cubic feet per second during the period August 1 to September 30.)

7. Floras Creek or its tributaries above the U.S. Highway 101 crossing for flows of the Floras Creek below 5 cubic feet per second measured at a point between U.S. Highway 101 crossing and 0.5 miles above said crossing.

8. The Coquille River North Fork or its tributaries above former USGS Gage 735 (NW 1/4 Section 36, Township 28 South, Range 12 West), near Myrtle Point, Oregon for flows of the Coquille River North Fork below 26 cubic feet per second measured at the aforementioned gage site.

9. The Coquille River North Fork or its tributaries above the Coquille River North Fork - Whitly Creek confluence for flows of the Coquille River North Fork below 8 cubic feet per second, measured at a point between said confluence and the Coquille River North Fork - Neeley Creek confluence.

10. The Coquille River East Fork or its tributaries above the Coquille River East Fork - China Creek confluence for flows of the Coquille River East Fork below 10 cubic feet per second measured at a point between said confluence and 1.0 miles above said confluence.

TABLE 1 (continued)
Minimum Perennial Streamflows (cfs)

Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
Benson Creek: at mouth												
8/15	15	15	15	15	15	15	15	8	2	2	2	4-1-80
Big Creek: above confluence with Noble Creek												
8/15	15	15	15	15	15	15	15	8	2	2	2	4-1-80
Eel Creek: below Eel Lake												
8/12	12	12	12	12	12	12	12	8	3	3	3	4-1-80

TABLE 2

Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
South Fork Coquille River: below Middle Fork Coquille River and maintained to the mouth. (Earlier priority date for the indicated flow to tidewater.)												
200	200	180	180	180	180	180	180	100/45	45	45	45	11-3-83
Coquille River: below the confluence of North Fork and South Fork Coquille River and maintained to the mouth.												
300/380	380	360	360	340	340	340	340	200/95	71	71	71	11-3-83

* Earlier priority date for all or a portion of the indicated flow.
** Sand bars prevent direct surface flow to the ocean of many South Coast Basin streams at times. During such periods minimum flows shall apply to the head of the pools formed by the sand bars.

4935A

1. Domestic and livestock uses and irrigation of non-commercial gardens not exceeding 1/2 acre in area.

2. Water legally released from storage.

D. All applications for appropriation of water for storage in structures impounding more than 3,000,000 gallons of water shall be reviewed by the Water Policy Review Board prior to approval. During the review the Water Policy Review Board may establish additional minimum flows on the natural flow of the stream to support aquatic life or minimize pollution.

XI. The following reservoir sites should be protected through the comprehensive planning process for possible future development or until alternative methods of meeting water needs have been developed:

A. West Fork of the Millicoma River, site 223.
B. South Fork of Coquille River at Eden Ridge, site 430.
C. North Fork Coquille River, site 146A
D. Rock Creek at Rasler Creek, site 201.
E. Catching Creek, site 101.
F. Fourmile Creek, site 158.
G. North Fork Floras Creek at Okietown, site 435.
H. North Fork Chetco River, site 239.
I. Wheeler Creek, site 241.
J. East Fork Winchuck River, site 243.
K. Joe Ney Slough.

John — We're covered. No longer an issue. You are correct. John

XII. Applications for the use of water for any purposes contrary to classifications specified in the basin program shall not be accepted or granted except as provided by law. The Director shall notify the Board and other interested individuals or agencies of the intent to accept an application for use in conflict with the adopted program in accordance with ORS 536.380 if the proposed use will not have a significant impact on any other water use as provided in Section I through XI of this program.

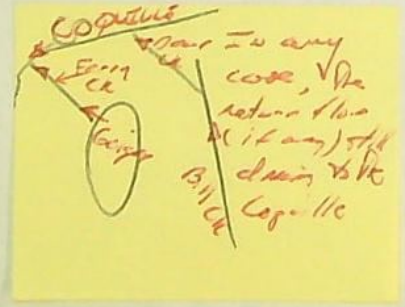
XIII. The planning, construction and operation of any structures or works for the utilization of water in accordance with the aforementioned classifications are to conform with the applicable provisions of ORS 536.310, including but not restricted to the recommendation of the multiple-purpose concept.

Windhurst

XIV. No out-of-basin diversion of South Coast Basin water shall be made or granted by any state agency or public corporation of the state without the prior approval of, and following a public hearing by, the Water Policy Review Board. -- we need w/in S. Coast Basin = OK

XV. Water rights and permits issued prior to the effective date of this program shall not be affected except as provided in Section X.

Done and dated this 25th day of September 1984.



WATER POLICY REVIEW BOARD

Ralf Hakanson

Ralf Hakanson, Chairman

4935A

WATER AVAILABILITY-SURFACE WATER APPLICATIONS

Name of Applicant Windhurst Road Water Corp. Application Number 69654

1. Is there a gaging station at or nearby the point of diversion for this application that gives a record of water supply?

Yes _____ No ✓

If yes, how long is the record? _____ years, from 19 ____ through 19 ____.

Does the record include any extremely low flows years?

Yes _____ No _____

If yes, list low flow years.

2. Have any miscellaneous measurements been made at or near the point of diversion?

Yes _____ No ✓

If yes, list measured flows and dates.

3. Has the stream or basin that is the source for this application ever been regulated for prior rights or minimum streamflows?

Yes _____ No ✓

If yes, explain by giving dates and rights involved.

4. Do you observe this stream system in your routine, regular field work?

Yes _____ No ✓

If yes, list number of years of observation.

5. Based on routine observation, do you think there would be enough water available in the quantity and at time needed to supply this application and do you think use may be made without harming vested and inchoate rights?

N/A

Yes _____ No _____

If yes, what would you recommend for conditions for this permit.

J. P. Drolet
WM Dist XIX
08-15-88

ATTACHMENT E

WATER AVAILABILITY-SURFACE WATER APPLICATIONS

Name of Applicant Windhurst Road Water Corporati Application Number R-69708

1. **Is there a gaging station at or nearby the point of diversion for this application that gives a record of water supply?**

   Yes _____ No ✓

If yes, how long is the record? _____ years, from 19 ____ through 19 ____.

Does the record include any extremely low flows years?

Yes _____ No _____

If yes, list low flow years.

2. **Have any miscellaneous measurements been made at or near the point of diversion?**

   Yes _____ No ✓

If yes, list measured flows and dates.

3. **Has the stream or basin that is the source for this application ever been regulated for prior rights or minimum streamflows?**

   Yes _____ No ✓

If yes, explain by giving dates and rights involved.

4. **Do you observe this stream system in your routine, regular field work?**

   Yes _____ No ✓

If yes, list number of years of observation.

5. **Based on routine observation, do you think there would be enough water available in the quantity and at time needed to supply this application and do you think use may be made without harming vested and inchoate rights?** Surplus winter flows will likely be available to fill the reservoir

   Yes _____ No _____

If yes, what would you recommend for conditions for this permit.

rcv'd 10-17-88

J. P. Drolet 10-17-88

w/m #19

WATER AVAILABILITY-SURFACE WATER APPLICATIONS

Name of Applicant Windhurst Road Water Corporati Application Number R-69708

1. Is there a gaging station at or nearby the point of diversion for this application that gives a record of water supply?

Yes _____ No ✓

If yes, how long is the record? _____ years, from 19 ____ through 19 ____.

Does the record include any extremely low flows years?

Yes _____ No _____

If yes, list low flow years.

2. Have any miscellaneous measurements been made at or near the point of diversion?

Yes _____ No ✓

If yes, list measured flows and dates.

3. Has the stream or basin that is the source for this application ever been regulated for prior rights or minimum streamflows?

Yes _____ No ✓

If yes, explain by giving dates and rights involved.

4. Do you observe this stream system in your routine, regular field work?

Yes _____ No ✓

If yes, list number of years of observation.

5. Based on routine observation, do you think there would be enough water available in the quantity and at time needed to supply this application and do you think use may be made without harming vested and inchoate rights?

Surplus winter flows will likely be available to fill the reservoir

Yes _____ No _____

If yes, what would you recommend for conditions for this permit.

rcv'd 10-12-88

J. P. Drolet 10-12-88

Application No. R 69708 Permit No.

RECEIVED
JUN - 1 1994
Water Resources Dept.
Salem, Oregon

RECEIVED
SEP - 6 1988
WATER RESOURCES DEPT.
SALEM, OREGON

STATE OF OREGON WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

I, WINDHURST ROAD WATER CORPORATION
(Name of Applicant)

of P. O. BOX 503 (Mailing Address), BANDON (City)

State of OREGON, 97411 (Zip Code), Phone No. 503/347-3062

do hereby make application for a permit to construct the Unnamed reservoir and to store the unappropriated waters of the State of Oregon, subject to existing rights.

1. The name of the stream from which the reservoir is to be filled is Bill Creek Tributary to Bear Creek tributary to Coquille River

2. If not in channel of a stream, state how it is to be filled. The dam will be in the channel of Bill Creek.

3. The dam will be located in the NE ¼ of the SW ¼ of Section 3, Township 29 South, Range 14 West, W. M.

4. The maximum height will be 25 feet above stream bed or ground surface at the centerline. The top width will be 20 feet, slope of upstream face 3:1, slope of downstream face 2:1, and height of dam above water line when full 2.5 feet.

5. The dam will be (check one) X earthfill, ... concrete, X flashboard, ... other.
If "other", give description: See Item #12

6. Give the location, description, and dimensions of the outlet conduit: A 12" diameter PVC valved conduit through the left abutment.
(All dams across natural stream channels must be provided with an outlet conduit, of such capacity and location to pass the normal flow of the stream at any time)

Form 690-2-0-1-77

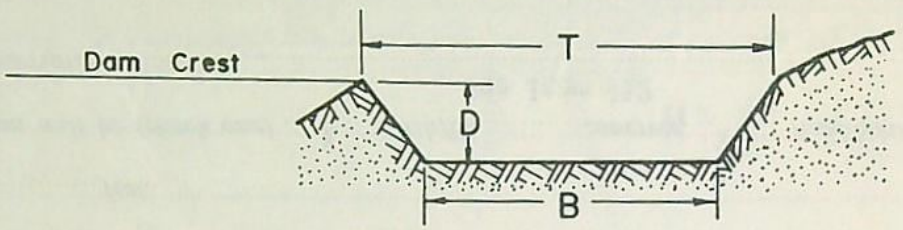
Application No. R-69708 Permit No.

7. The impounded water will be used for Cranberry irrigation, cranberry temperature control, cranberry flood harvest, and irrigation.

8. The amount of water to be stored is 100 acre feet.

9. The area submerged by the reservoir, when full, will be 10 acres, and the maximum depth of water will be 22 feet.

10. Give the location and dimensions of the spillway See item #12.
(State whether over or around dam)



The bottom width of the spillway, B, will be See item #12. feet.

The top width of the spillway, T, will be See item #12. feet.

The distance between the crest of the dam and the crest of the spillway, D, will be 2.5 feet.
(Must be at least 2½ feet)

If any other type of spillway describe and give dimensions:

See item #12.

11. Construction work will begin on or before October 1, 1989

12. Construction work will be completed and the reservoir filled by October 1, 1991

Remarks: The structure is intended to be a combination earth fill and flashboard. A reinforced concrete left abutment cast into bedrock, approximately 30 feet of flashboard structure, a right abutment, serving as a transition zone, and an earthfill structure anchoring the right abutment.

Excavation will be to bedrock throughout the length of the flashboard portion. Dowels will be embedded, and a reinforced concrete base will be constructed, extruding from bedrock to the approximate elevation of the bottom of the existing channel. In addition, reinforced concrete grade beams will intersect the base at right angles from downstream, at 8 to 10 feet centers, so as to provide the necessary support for several support brackets.

The flashboards are intended to be placed on about April 1st of each year, and removed on about November 1st of each year. The structure will store no water between November 1st and April 1st.

Engineering plans and specifications are being prepared by James F. Gosson, Civil Engineer, Roseburg, Oregon and will be forwarded for your review immediately upon their completion.

Wayne R. Scherer
Signature of Applicant

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

In order to retain its priority, this application must be returned to the Water Resources Director with corrections on or before June 1, *19* 94

WITNESS my hand this 14th *day of* February, *19* 94

Martha O. Pagel, *Water Resources Director*

By Michael J. Mattick

MICHAEL J. MATTICK
Water Rights Specialist

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 6th *day of* September *19* 88, *at* 8 *o'clock* a *M.*

Application No. R-69708 *Permit No.*

Application No. R-69708 *Permit No.* .....

Permit to Construct a Reservoir and Store for Beneficial Use the Public Waters of the State of Oregon

This is to certify that I have examined the foregoing application and do hereby grant the same subject to the following limitations and conditions. The right herein granted is limited to the construction of .....

.....

.....

.....

.....

.....

.....

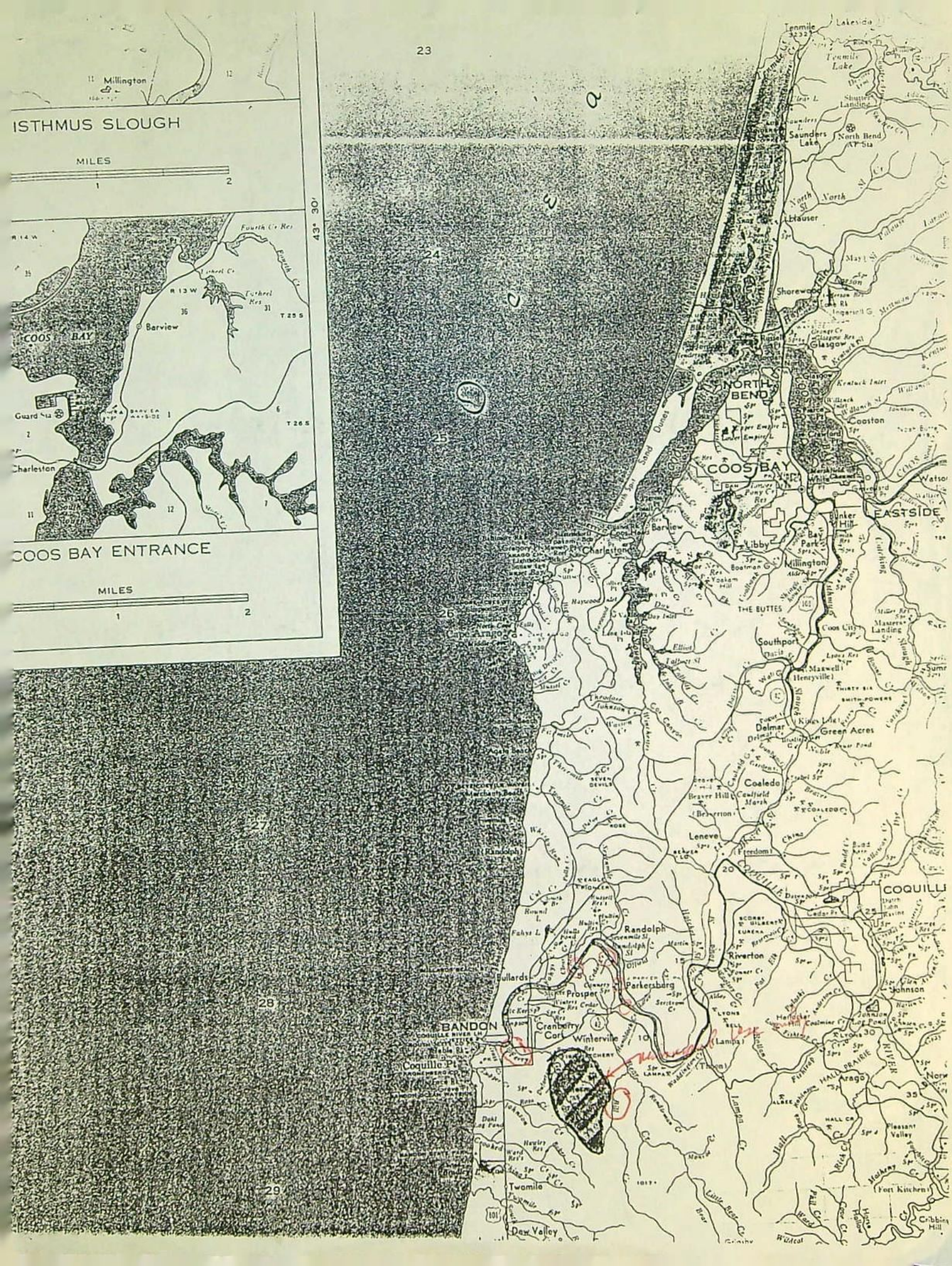
The right hereunder shall be limited to the storage of ..... *acre feet.*

The priority date of this permit is .....

Actual construction work shall begin on or before ..... *and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 19*.....

WITNESS my hand this ..... *day of* ....., *19*.....

.....
Water Resources Director


ISTHMUS SLOUGH
MILES
1
2
Millington
COOS BAY ENTRANCE
MILES
1
2
Barview
Charleston
Guard Sta
Cape Arago
NORTH BEND
COOS BAY
EASTSIDE
Coaledo
Randolph
Riverton
Parkersberg
Prosper
Bullards
BANDON
Coquille Pt
Cranberry Cart
Winterville
Twomile
Dew Valley
Coquille
Johnson
Arago
Pleasant Valley
Fort Kitchens
Cribbing Hill
Lakeside
Saunders Lake
North Bend
Glasgow
Shorewood
Hauser
Libby
Millington
Bunker Hill
Bay Park
Southport
Coos City
Delmar
Green Acres
Agate Beach
Leneve
Lampa
Thom
Hall Prairie
Hall Ck
Rink Ck
Ward Ck
Wildcat
Hayes Hollow
Holmes
Little Beach Cr
Beaver Hill
Coaledo Marsh
Seven Devils
Merchants Beach
Tenmile
Tenmile Lake
Shutter Landing
Fourth Cr Res
Pigeon Pt
Talbert Cr
Talbert Res
Fairhaven
Empire
Crawford Pt
Kentuck Inlet
Willanch St
Watson
Haynes Inlet
Coos Head
Yoakam Hill
Boatman Cr
Haynes Inlet
Elliott
Talbert St
Lake Br
Throughfare
Johnson
Cape Cr
Agate Cr
Thielsen
Seven Devils
Beaver Hill
Coaledo
Coalfield Marsh
Leneve
Freedom
Randolph
Fahys L
Round L
Hollis Pond
Eagle Creek
Cedar Pt
Scobey & Gilberts
Eureka
Johnson
Hardscrabble
Coalmine
Log Ponds
Lyons
Bell
Lampa
Thom
Hall Prairie
Arago
Pleasant Valley
Fort Kitchens
Cribbing Hill
Twomile
Dew Valley
Coquille River
Coquille Pt
Cranberry Cart
Winterville
Prosper
Parkersberg
Bullards
Randolph
Riverton
Coaledo
Leneve
Delmar
Green Acres
Southport
Coos City
Millington
Bunker Hill
Bay Park
Libby
Barview
Charleston
Cape Arago
Agate Beach
Merchants Beach
Seven Devils
Tenmile
Tenmile Lake
Shutter Landing
Saunders Lake
North Bend
Glasgow
Shorewood
Hauser
Coos Bay
Eastside
North Bend
Cooston
Watson
Fairhaven
Empire
Crawford Pt
Kentuck Inlet
Willanch St
Haynes Inlet
Coos Head
Yoakam Hill
Boatman Cr
Talbert St
Lake Br
Throughfare
Johnson
Cape Cr
Agate Cr
Thielsen

James F. Gosson
Consulting Engineer

RECEIVED
SEP - 6 1988
WATER RESOURCES DEPT.
SALEM, OREGON

August 29, 1988

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

Attention: Mr. Wayne Overcash

Re: Windhurst Road Water Corporation

Dear Mr. Overcash:

Enclosed is an Application for Permit to Construct a Reservoir. Also enclosed is a check in the amount of $200 for the examination fee.

Please amend Application #69654 to include the reservoir as the source of water.

Thank you.

Very truly yours,

James F. Gosson, P.E.

cc: Wayne Scherer

JFG/p

Application No. R-69708
Permit No.

1257 S.E. Washington, Roseburg, Oregon 97470 • (503) 672-8384

need PE 5 yrs for Reservoir Appl-

Reservoir - needs to be included as a source of water on Appl-69854

Reservoir area needs to be shown on supporting maps

S apparently means sump or holding pond - if so - needs to be noted on maps

Areas to receive primary supply need to be <u>hachured</u> in different manner

Section 32

S-2.8 - matches close but could be better -

ME¼ SE¼ P-10.0

S-2.2 - could match better

SE¼ SE¼ P-20. less than 20 acres included on map

Section 33

S-5 - only existing for 2.8 acres

ME¼ SW¼

S-13 - only 9.7 acres of existing rights in area mentioned.

NW¼ SW¼ also part of land hachured on map does not have any existing rights also some left un-hachured?

Section 3

NW¼ SW¼ P-3.0 - OK

Section 4

S-6 S-0.2 OK as shown on map are not in complete agreement with our records

NW¼ SW¼ P-11 less than 10.0 acre area shown on map

S-13.1 only existing rights for 12.6 acres

SW¼ SW¼ P-2.0 - OK

S-0.8 -

SE¼ SW¼ P-0.2 - not shown on map.

ME¼ SE¼ P-5 OK

Section 5

S 0.4 - OK

ME¼ ME¼ P 1.0 - less than one acre shown on map

S-0.1 - OK

NW¼ ME¼ P-0.3 - not shown on map

SW¼ ME¼ P-2.0 - fields or bogs shaped a little different

SE¼ ME¼ S-3.6 " " " " "

S-0.3 no existing right of record

P-13.0 - may be less than 13.0 acres shown on map.

S-5.0 not in complete agreement with ours of record

NE¼ SE¼ P-1.0 - OK

Section 9

S-3.0 fields shaped a little different

ME¼ ME¼ P-2.5 less than 2.5 acres shown on map

NW¼ ME¼ P-5 Less than 5.0 acres shown on map

S-7.3 fields shaped different and may be less than 7.3 acres

SW¼ ME¼ P-2.5 only about 1.5 acres shown on map

Need permit recording fees for Reservoir Appl- $100.00 50 of

12.50 50 of @ .25

112.50

Application No. 68371
Permit No. 49680

Johnson Creek 1.24 cfs

8.25 acres

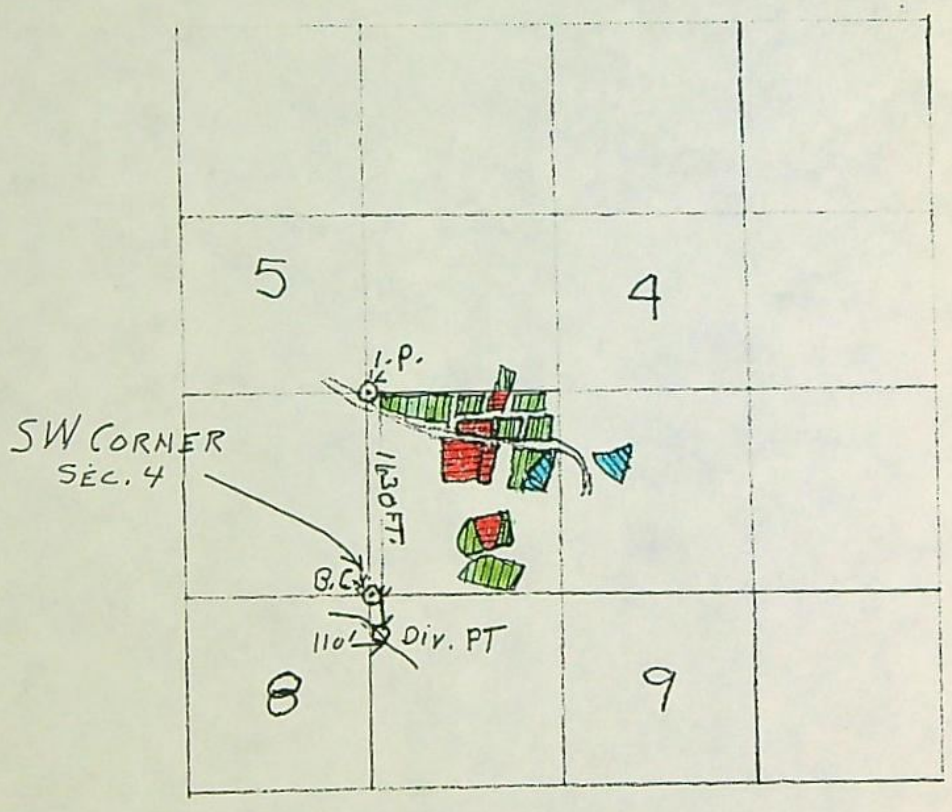
1.24 cfs T.C.
0.41 cfs F.H.
0.21 cfs irrig.

T. 29 S. R. 14 W. W.M.

RECEIVED
NOV - 7 1985
WATER RESOURCES DEPT
SALEM, OREGON

RECEIVED
APR 9 1987
WATER RESOURCES DEPT
SALEM, OREGON

SCALE 4" = 1 MILE



Lands irrigated under Cert. # 35720 and receive water for temperature control and flood harvesting under Permit 47504 (0.5 ac SW¼ SW¼, 0.8 ac SE¼ SW¼)

Lands irrigated and receive water for temperature control under Permit 41469 and receive water for flood harvesting under Permit 47504 (4.75 ac SW¼ SW¼)

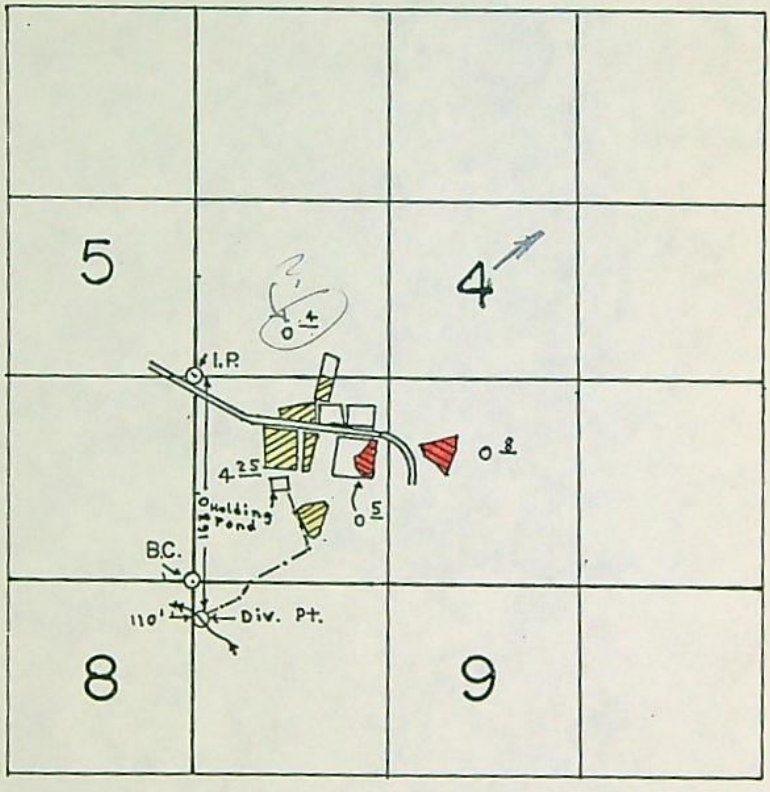
Lands To be irrigated and to receive water for Temperature control and flood harvesting under permit Approving Application G 8371 (7.85 ac SW¼ SW¼, 0.25 ac NW¼ SW¼)

Johnson Creek
February 8, 1977
0.11cfs for irrigation
0.45cfs for T.C.
on 4.25 ac

Permit 41467

John Creek
Permit 47504
January 13, 1983
0.195cfs TC
on 1.3ac
0.28cfs Flood Harvesting
on
5.55 acres

T. 29 S. R. 14 W. W.M.



2
0.5
0.8
0.75
3.50
5.55

Permits 41467, 47504
Permit 47504

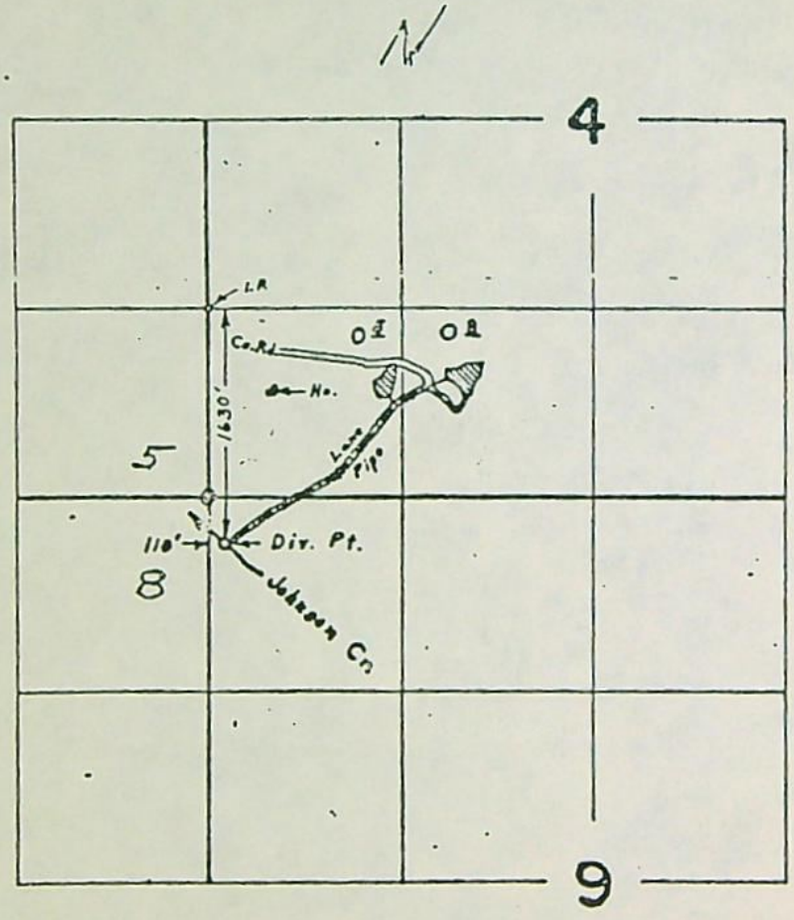
1
4.75
7.85
12.60

PTS Field Form

Application No. G4733

Permit No. 47501

T.29 S.R.14 W.W.M.



Temp. and Harvest

Legal description of property: S½ of the S W ¼ of Section 4 Township 29 South of Range 14 West of the Willamette Meridian in Coos County Oregon.

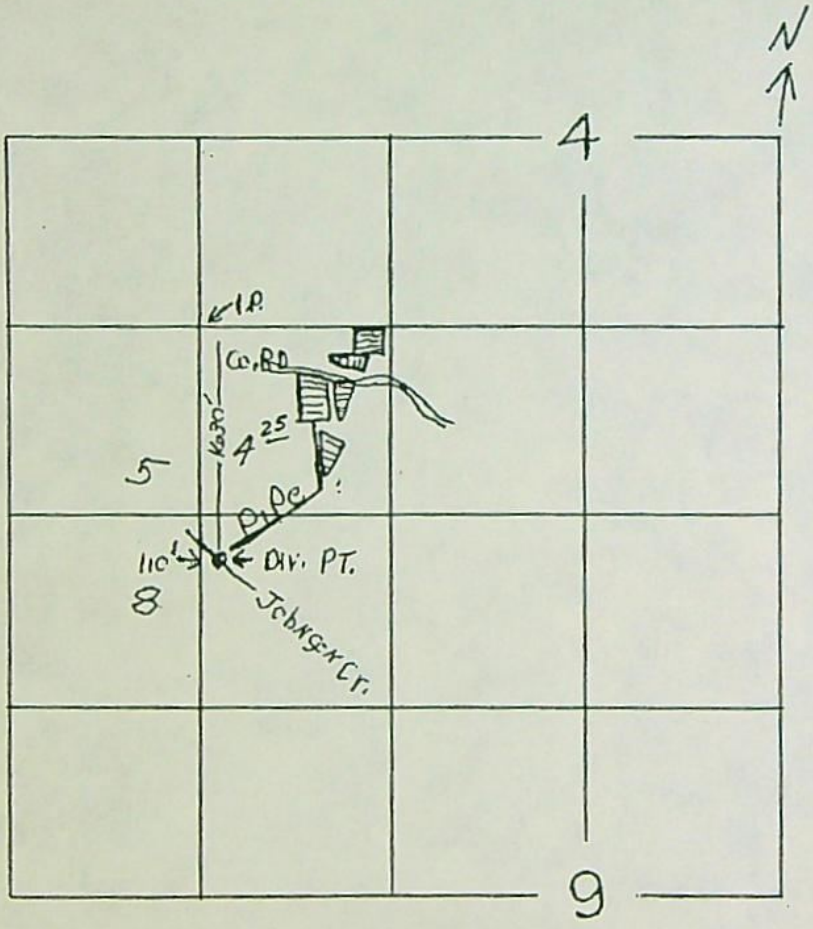
RECEIVED
SEP 16 1985
WATER RESOURCES DEPT
SALEM, OREGON

RECEIVED
MAR 7 1983
WATER RESOURCES DEPT.
SALEM, OREGON

RECEIVED
FEB 11 1983
WATER RESOURCES DEPT.
SALEM, OREGON

T. 29 S. R. 14 W. W. M.

Scale - 1" = 1320"

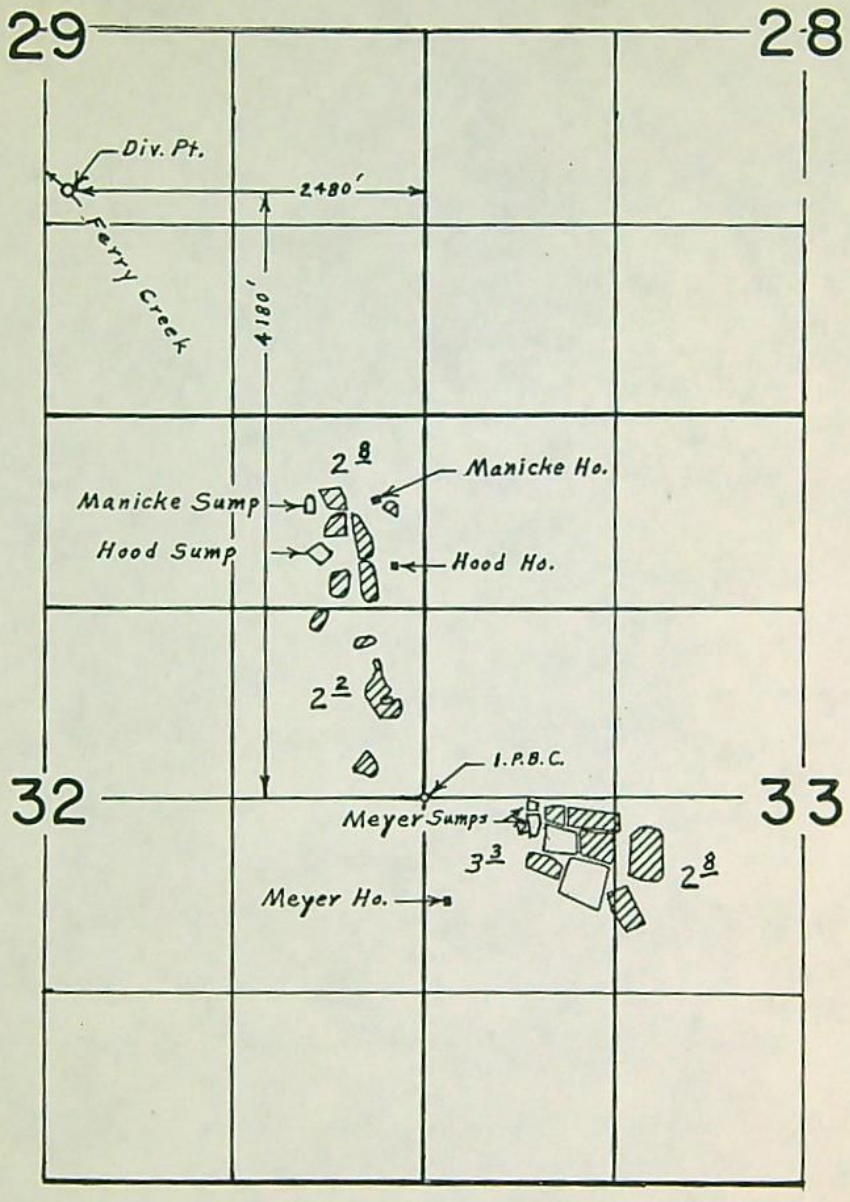


Application No. 55207

Permit No. 41467

Ferry Creek
Sept. 7, 1966
1.0 cfs
1.0 cfs Frost Protection
0.14 cfs irrigation
0.56 cfs harvesting
all on 11.1 acres

T.28S. R.14W. W.M.



3.3
6.4
9.7

FINAL PROOF SURVEY
UNDER

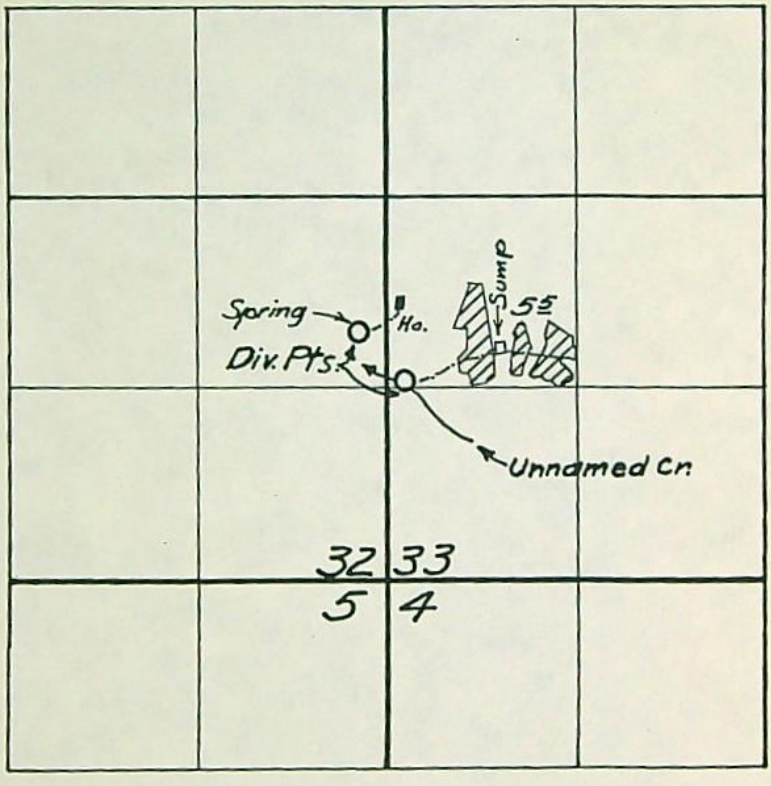
Application No. 42775 Permit No. 31857
IN NAME OF
Lowell Meyer et al.

Surveyed Aug. 27, 1976, by L. E. Gould

COB-4HH-38 & 1976-L

on unnamed stream
0.07 cfs
April 11, 1946
5.5 acres irrigation

T29&28SR14WWM



FINAL PROOF SURVEY

UNDER

Application No. 21552 Permit No. 16898

IN NAME OF

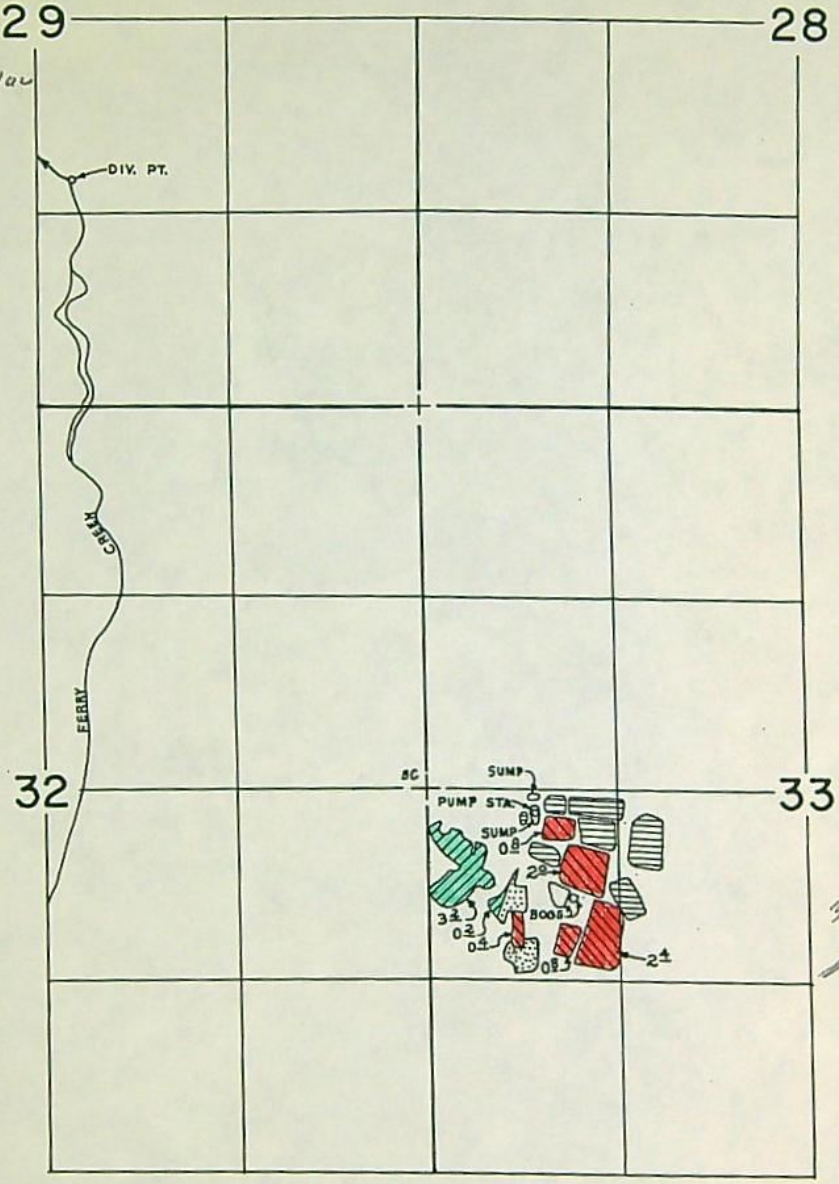
Elmer J. Allinger

Surveyed Aug 16 1955 by M. Bish

1955L

Ferry Creek
May 21, 1979
0.35 cfs
0.20 cfs irrig on 9.8 ac
0.35 cfs TC on 6.4 ac
0.32 cfs Harvesting on 6.4 ac

T. 28S., R. 14W., W.M.



0.16
0.04
0.20

(2) 0.8
2.0
0.8
2.4
0.4
6.4

3.2
0.2
3.4

DIV. PT. LOCATED 230' N. & 240' E. FROM S. 1/16 CORNER SECTION 29
PUMP STA. LOCATED 165' S. & 760' E. FROM 1/4 CORNER SECTIONS 32 & 33

SCALE: 4" = 1 mile

FINAL PROOF SURVEY

UNDER

- A # 58672 IRRIGATION
- A # 58677 IRRIGATION, TEMPERATURE CONTROL & CRANBERRY HARVESTING.
- A # 42775 IRRIGATION, TEMPERATURE CONTROL & CRANBERRY HARVESTING.
- A # 21552 IRRIGATION

Application No. 58677 Permit No. 44582
IN NAME OF

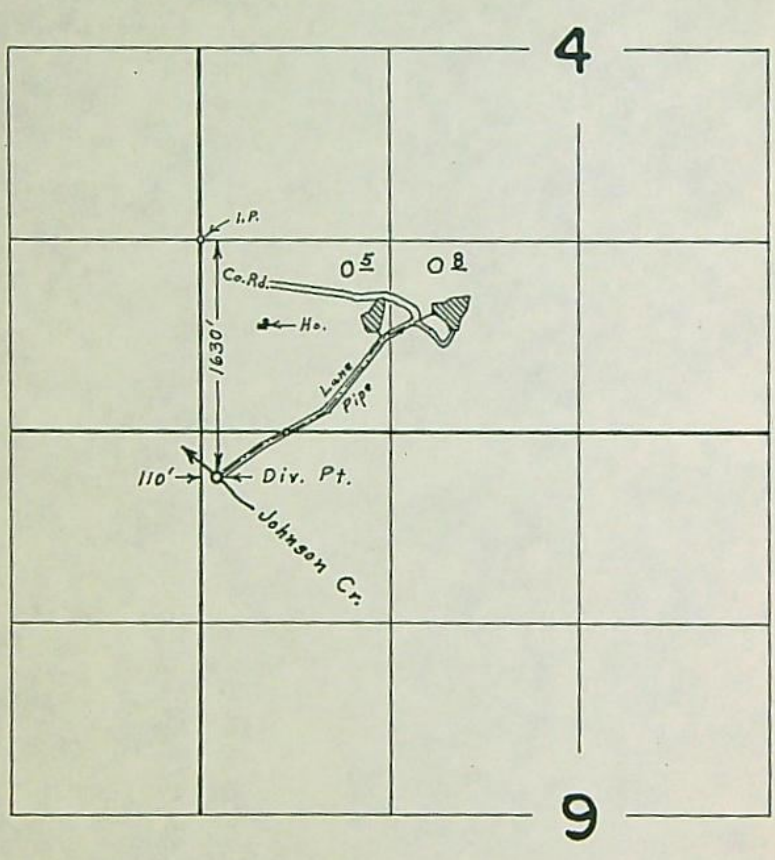
LOWELL E. MEYER

Surveyed SEPT. 18, 1984, by J.E. Cashion

41011-180-12A D.H.C.

Johnson Creek
Nov. 28, 1956
0.13 cfs
1.3 acres of irrigation

T. 29 S. R. 14 W.W.M.



FINAL PROOF SURVEY
UNDER

Application No. 31234 Permit No. 24615
IN NAME OF

RONNY O. HAGA

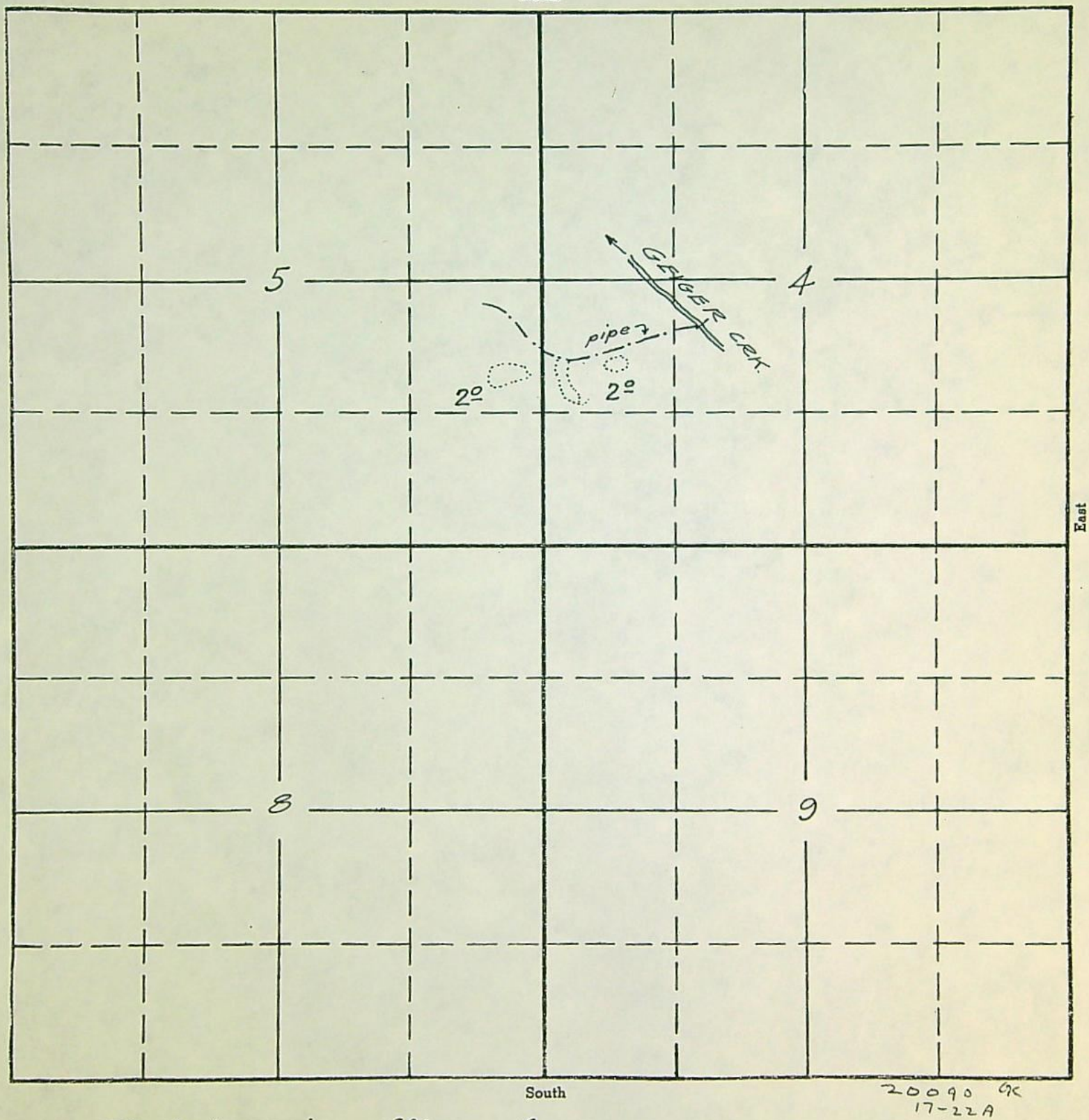
Surveyed July 18, 1968., by L. E. Gould

1968-T

SECTION

Geiger Creek
Nov 29, 1943
0.4 cfs
4.0 acres irrigation

TOWNSHIP 29 S, RANGE 14 W, W. M.



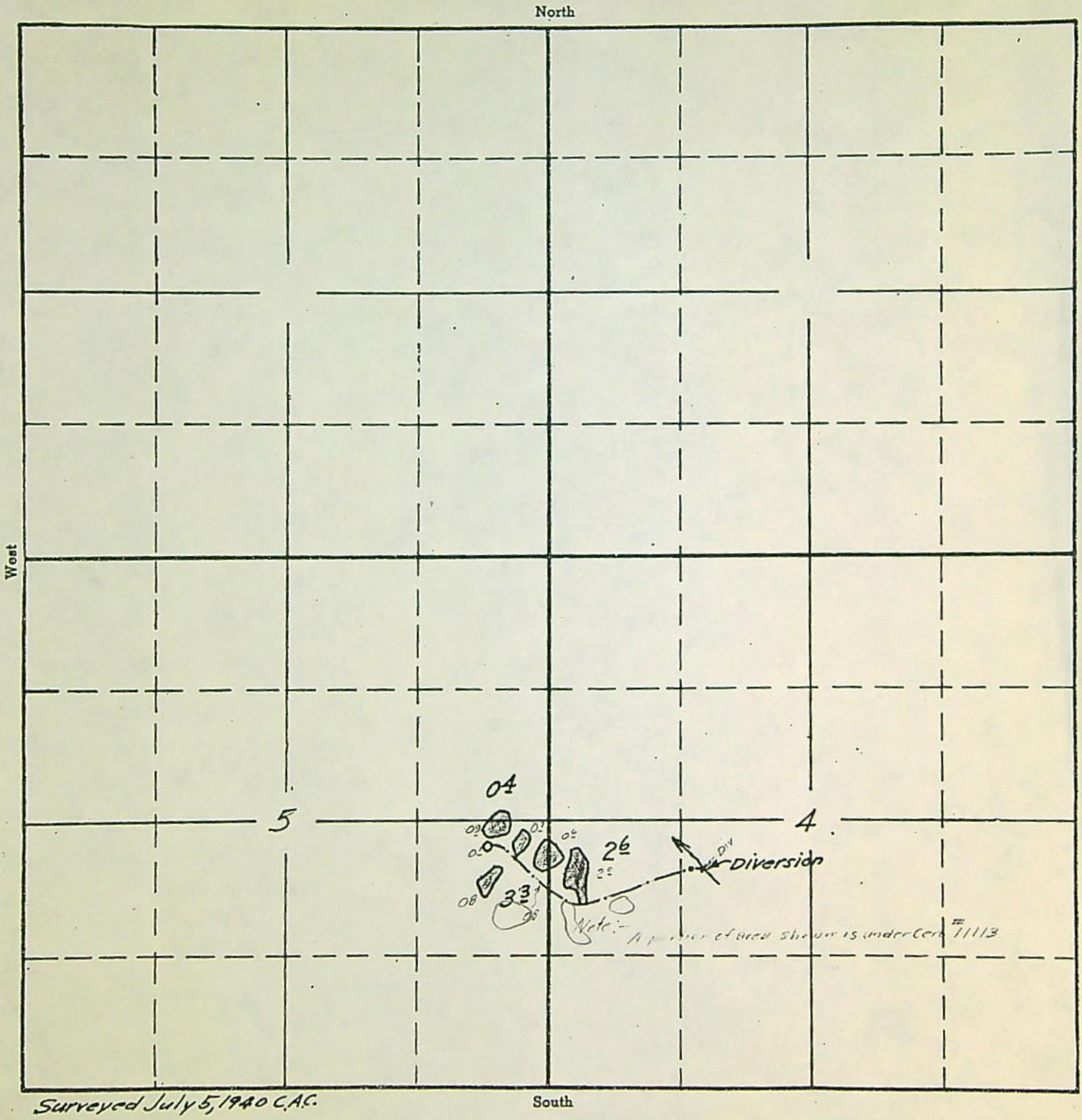
20090 GK
17-22A

Sketched in office of the State Engineer from data by applicant 11-29-43.
EKH

Application No. 20090
Permit No. 15653

SECTION

TOWNSHIP 29 S, RANGE 14W, W. M.

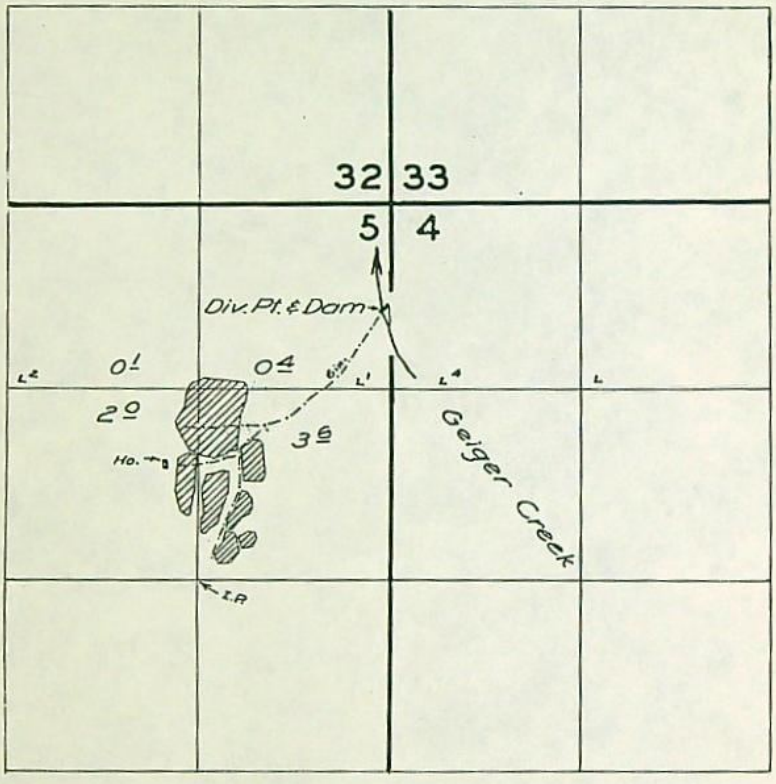


Geiger Creek
June 28, 1939
0.3 cfs
irrigation of 3.0 acres
in NE¼ SE¼ Sec 5

APPLICATION No. 18237
PERMIT No. 13898

Geiger Creek
Month 28, 1944
0.5 cfs
6.1 acre irrigation

T.29 S.R.14 W.W.M.



FINAL PROOF SURVEY
UNDER

Application No. 20179 Permit No. 15722
IN NAME OF

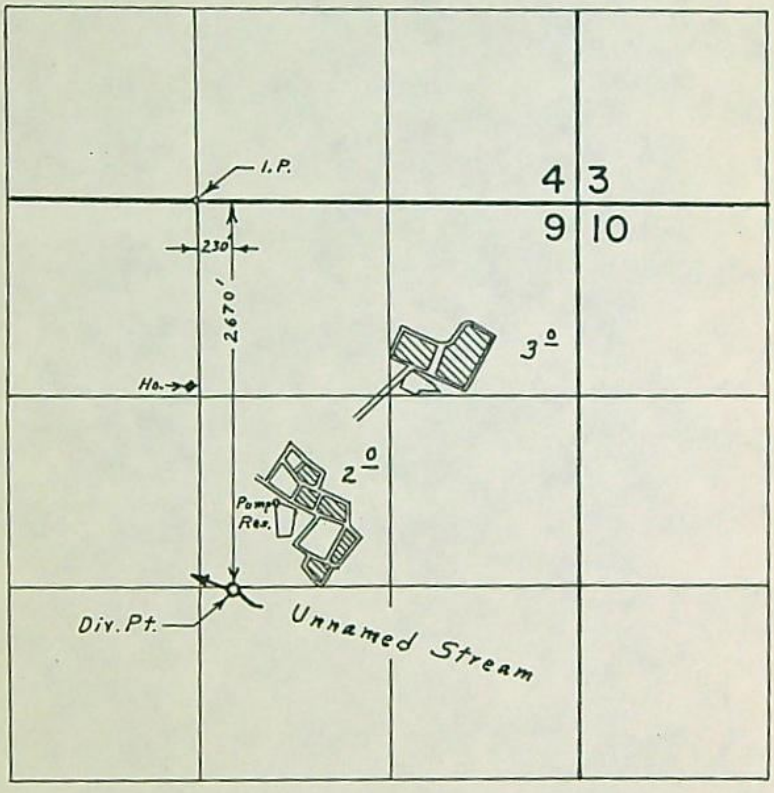
Rankin-Gould Bag, Inc.

Surveyed 22 May 1958, by Tm. Bish

1958-A

an unnamed stream
April 6, 1970
0.13 cfs
5.0 acres of irrigation

T.29S., R.14W., W.M.



FINAL PROOF SURVEY
UNDER

Application No. 46863 Permit No. 35039
IN NAME OF

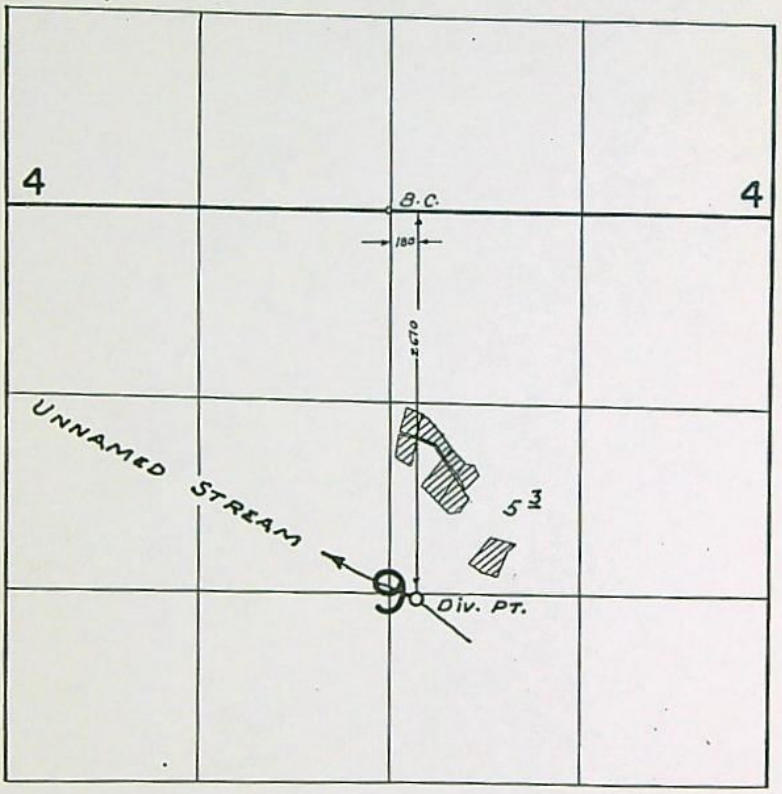
ESTATE OF ERWIN F. RICHART

Surveyed April 20, 1972, by L. E. Gould

1972-5

unnamed stream
June 9, 1961
0.13 cfs
5.3 acres of irrigation

T.29S.R.14W.W.M.



FINAL PROOF SURVEY
UNDER

Application No. 35031 Permit No. 27437
IN NAME OF

ERWIN RICHERT

Surveyed MAY 17, 1969, by W. RUPPERT

B.M.
1969-K

COPY

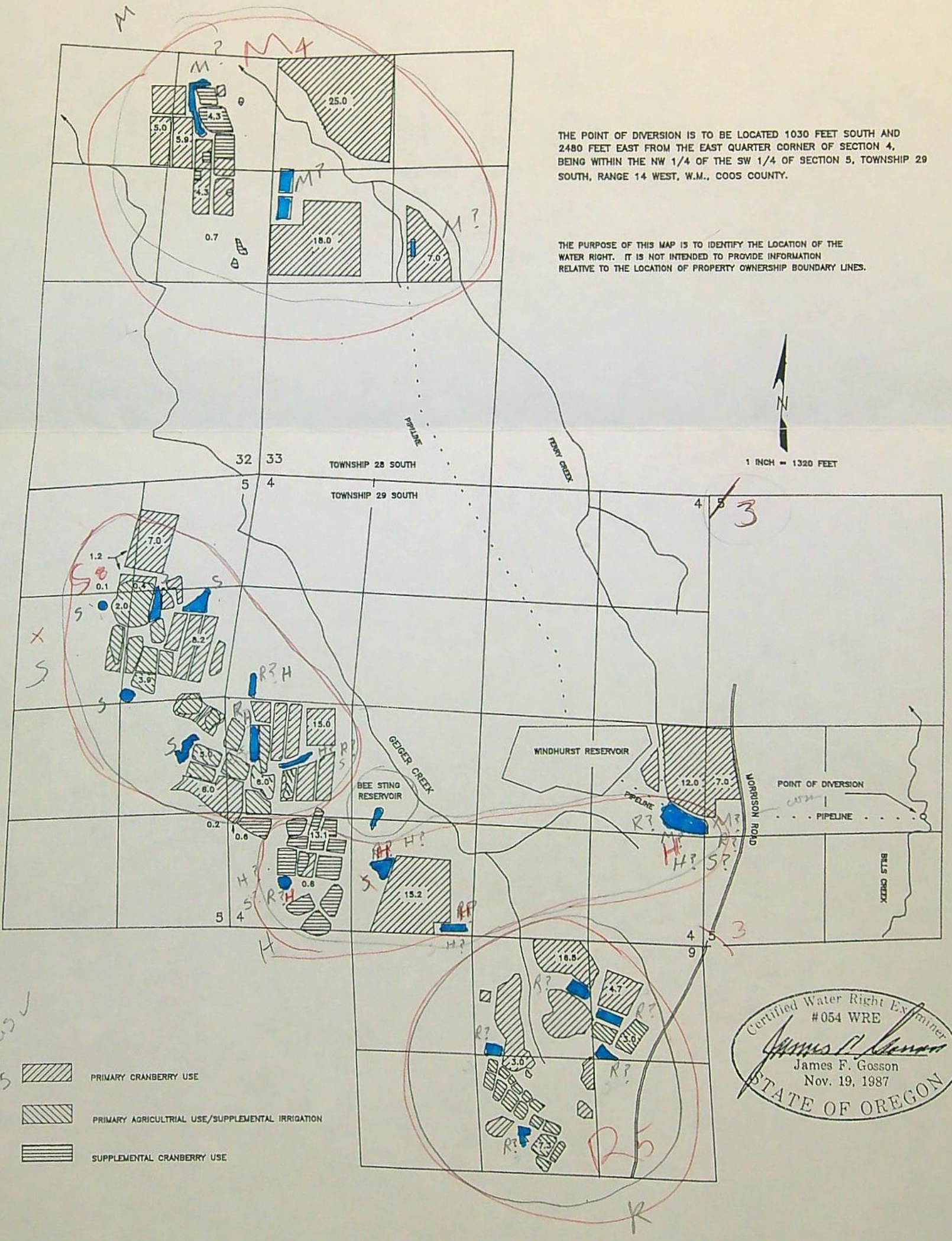
WA # 160300...

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

69654
R 69708

APPLICATION MAP
IN THE NAME OF
WINDHURST ROAD SUB DISTRICT

SECTIONS 32 & 33, T 28 S, R 14 W, WM
AND
SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM



THE POINT OF DIVERSION IS TO BE LOCATED 1030 FEET SOUTH AND 2480 FEET EAST FROM THE EAST QUARTER CORNER OF SECTION 4, BEING WITHIN THE NW 1/4 OF THE SW 1/4 OF SECTION 5, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY.

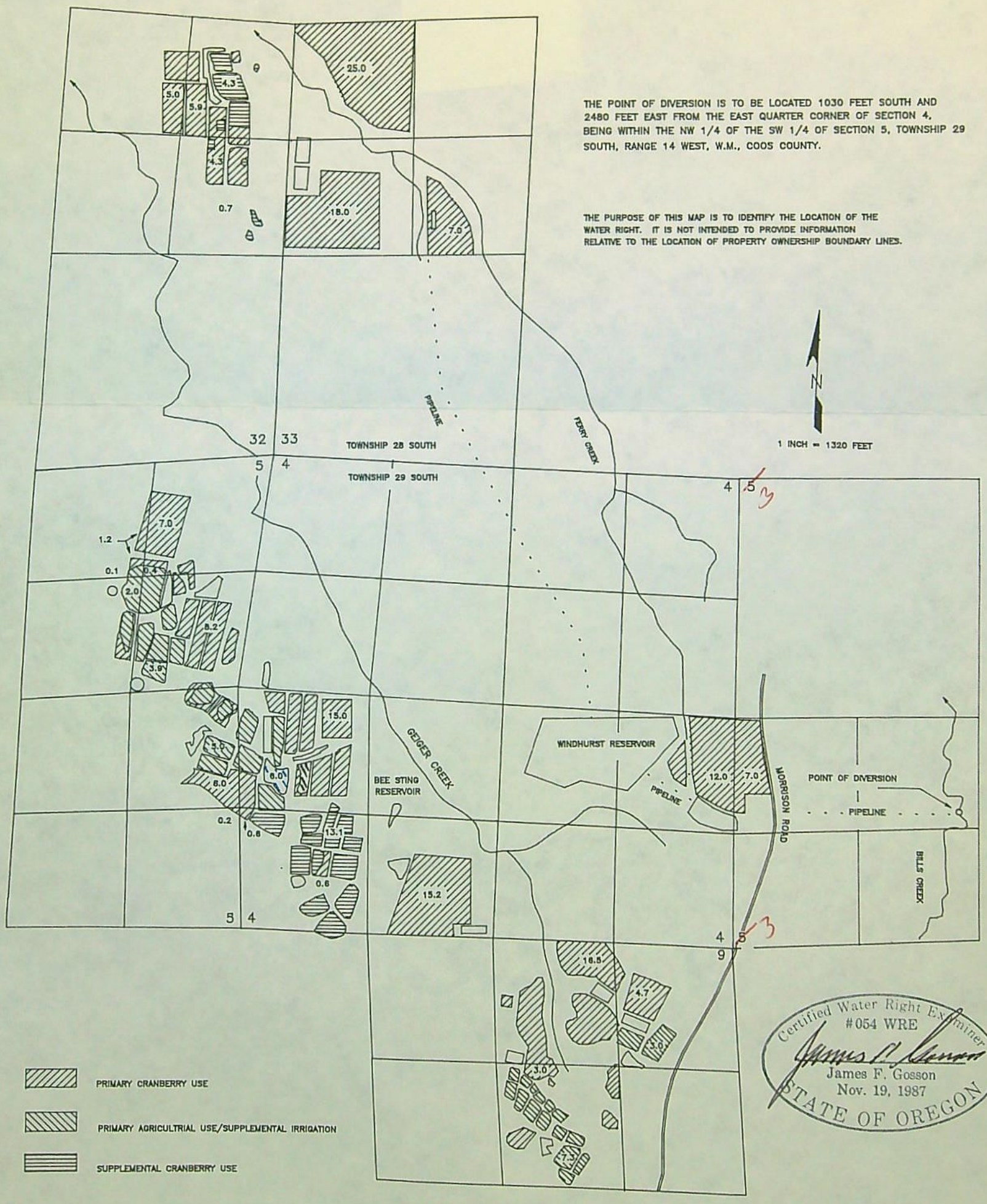
THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

Certified Water Right Examiner
#054 WRE
James F. Gosson
Nov. 19, 1987
STATE OF OREGON

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

APPLICATION MAP
IN THE NAME OF
WINDHURST ROAD SUB DISTRICT

SECTIONS 32 & 33, T 28 S, R 14 W, WM
AND
SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM



Certified Water Right Examiner
#054 WRE
James F. Gosson
Nov. 19, 1987
STATE OF OREGON

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # 112726

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

R

RECEIVED FROM: Wayne R. Scherer
BY:

APPLICATION	69708
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # ☒ 96-455 ☐ OTHER: (IDENTIFY) _____ TOTAL REC'D $ 1,500.-

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:	EXAM FEE		RECORD FEE	
842.001	SURFACE WATER	$	842.002	$ 1,500.-	
842.003	GROUND WATER	$	842.004	$	
842.005	TRANSFER	$	842.006	$	
	WELL CONSTRUCTION	EXAM FEE		LICENSE FEE	
842.022	WELL DRILL CONSTUCTOR	$	842.023	$	
	LANDOWNER'S PERMIT		842.024	$	
_____	OTHER (IDENTIFY)				

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 # 112726 DATED: 6-2-94 BY: D. Bischell

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

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # 112726

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

R

RECEIVED FROM: Wayne R. Scherer
BY:

APPLICATION	69708
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # ☒ 96-455 ☐ OTHER: (IDENTIFY) _____ TOTAL REC'D $ 1,500.-

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 #

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840.001	COPY FEES				$
850.200	RESEARCH FEEDS				$
880.109	MISC REVENUE: (IDENTIFY)				$
520.000	OTHER (P-6) (IDENTIFY)				$
	WATER RIGHTS:	EXAM FEE		RECORD FEE	
842.001	SURFACE WATER	$	842.002	$ 1,500.-	
842.003	GROUND WATER	$	842.004	$	
842.005	TRANSFER	$	842.006	$	
	WELL CONSTRUCTION	EXAM FEE		LICENSE FEE	
842.022	WELL DRILL CONSTUCTOR	$	842.023	$	
	LANDOWNER'S PERMIT		842.024	$	
_____	OTHER (IDENTIFY)				

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

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_____	HYDRO APPLICATION		$

RECEIPT # 112726 DATED: 6-2-94 BY: D. Bischell

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

Application No. R-69708 amendment Part 1 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503

Bandon, *City* Oregon *State* 97411 *Zip* (503) 347-~~3663~~ 3062 *Daytime Phone No.*

I (We) make application for a permit to construct Windhurst *reservoir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: Pumped from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 28 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: an 8" valved control conduit under the highest portion of the dam

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:* Primary cranberry use, primary agricultural use, supplemental irrigation and supplemental cranberry use

Windhurst Res

4. ***THE AMOUNT OF WATER*** *to be stored is:* 470 *acre-feet.*
The area submerged by the reservoir, when filled, will be 23 *acres,*
and the maximum depth of water will be 24 *feet.*

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* An excavated trapezoidal earthern spillway around the dam. Bottom width 4 feet minimum with 2:1 side slopes

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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* XX *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* XX *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?* No *. 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: Other property owners involved :

Rogge Forest Products, Bandon, Oregon 97411

Coos County Highway Department, Coquille, Or.

Engineered plans and specifications will be prepared upon receipt of a Favorable Technical Review to Windhurst Road SubDistrict. Windhurst Reservoir will be located off channel.

This subdistrict is a part of the Bandon Cranberry Water Control District.

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.

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.

Donny O Rogge — *Signature of Applicant*

5-24-94 — *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 _____, Oregon, on the ___1___ day of June, 1984, at 8 AM o'clock, ____ M.

APPLICATION NO: _____

A:APPFORM 9/89

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

RECEIVED
OCT 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon *State:* Or *Zip:* 97411 *Day Phone:* (503) 347-~~3663~~ 5062

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use , or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
	SEE SUPPLEMENTAL SHEET			

*Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.*_____

*The following section must be completed by a planning official from **each** county and city listed **unless** your project will be located **entirely within city limits.** In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. **Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below.** If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide requested information.

☐ *Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):*_____. *Go to section b) on reverse side.*

☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. **Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)***

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

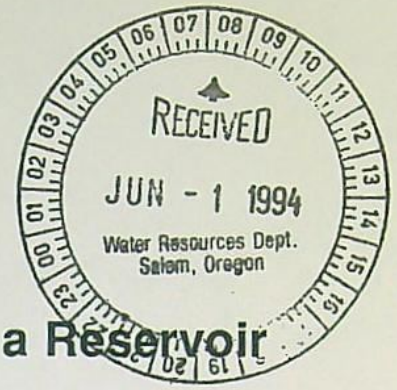
WRD Applicant Name: Windhurst Road Subdistrict

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos

Staff Contact: Patty Evernden Phone: 396-3121

Application No. R-69708 amendment Part 1 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

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Windhurst Res

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Proposed date water use will be completed October, 2001

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_____ *Applicant* XX *CWRE* _____ *Other (Identify in REMARKS section)*

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_____ *Applicant* XX *CWRE* _____ *Other (Identify in REMARKS section)*

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Coos County Highway Department, Coquille, Or.

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R Conroy O Rogge — 5-24-94

Signature of Applicant — *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 _____, Oregon, on the ___1___ day of June, 1984, at 8 AM o'clock, ____ M.

APPLICATION NO: _____

A:APPFORM 9/89

Planning Official Initials _____

Description of Water Use

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: Windhurst Road SubDistrict
Address: P.O. Box 503
Bandon, Oregon 97411

Phone: (503) 347-~~3663~~ 3062

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- ☐ Irrigation (crop type, golf course, nursery or greenhouse): _____
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): _____
- ☐ Residential (# units, single or multi-family, # lots if partition or subdivision): _____
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- ☐ Institutional (i.e., school, library, etc.): _____
- ☐ Mining (aggregate, metal, open pit, placer, etc.): _____
- ☐ Recreation (park, campsite, pond, etc.) _____
- ☐ Fish and Wildlife (pond, hatchery, etc.) _____
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☒ Other (Name and list key characteristics): Cranberry Use

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	_____ Cubic feet per second. _____ Gallons per minute. 470 Acre-Feet
☒ Reservoir or pond	
☐ Ground Water	

Water Resources Department, 3850 Portland Rd. NE, Salem, OR 97310
Phone: 378-3671

Version: 8/30/90

WINDHURST ROAD SUB DISTRICT
WINDHURST RESERVOIR APPLICATION
SUPPLEMENTAL SHEET

TOWNSHIP	RANGE	SECTION	TAX LOT	DIVERTED	CONVEYED	USED
29S	14W	3	900	X	X	
		4	800		X	X
		4	700		X	X
		4	500		X	X

RECEIVED
JUN - 1 1994
WATER RES
SALEM, OREGON

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

RECEIVED
JUN 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon *State:* Or *Zip:* 97411 *Day Phone:* (503) 347-~~3663~~ 3062

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use , or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
	SEE SUPPLEMENTAL SHEET			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

*The following section must be completed by a planning official from **each** county and city listed **unless** your project will be located **entirely within city limits**. In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. **Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below.** If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide requested information.

☐ *Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):_____. Go to section b) on reverse side.*

☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. **Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)***

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: Windhurst Road Subdistrict

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos

Staff Contact: Patty EVERNDEN Phone: 396-3121

Signature: Patty Everenden Date of Information Request: 5/26/94

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: _____ *Date:* _____

Title: _____ *Phone:* _____

Signature: _____

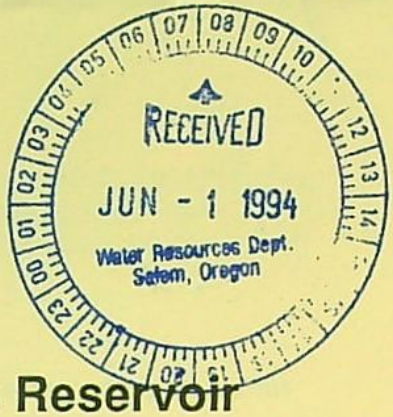
Local governments are invited to express special land use concerns or make recommendations to the Department regarding this proposed use of water below, or on a separate sheet. For additional information call Roberta Jortner or Rick Bastasch at 378-3671.

Additional Comments:

Oregon Water Resources Department
3850 Portland Rd. NE
Salem, OR 97310
378 - 3671

Version: 8/27/90

Application No. R-69708 amendment Part 2 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503

Bandon, (City) Oregon (State) 97411 (Zip) (503) 347-~~3663~~ 3062 (Daytime Phone No.)

I (We) make application for a permit to construct Four *reservoir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: Pumped from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 7 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: All reservoirs will be Excavated off-channel - no outlet conduits are planned.

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:* Primary cranberry use, primary agricultural use, supplemental irrigation, and supplemental cranberry use.

Haga Res
1, 2, 3, 4

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

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* A 12" diameter pipe through the dikes.

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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* XX *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* XX *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?* No *. 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: Other property owners involved:

Rogee Forest Products, Bandon, Or. 97411

Coos County Highway Department, Coquille, Or.

This subdistrict is a part of the Bandon Cranberry Water Control District.

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.

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.

Ronney C. Hagen — *Signature of Applicant*

5-24-94 — *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 _____, Oregon, on the 1 day of June, 1994, at 8 o'clock, A M.

APPLICATION NO: _____

A:APPFORM 9/89

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

RECEIVED
JUN 1 1994
SALEM, O.

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon *State:* Or *Zip:* 97411 *Day Phone:* (503) 347-~~3660~~ 3062

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use, or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply: Water Diverted	Water Conveyed	Water Use
	SEE SUPPLEMENTAL SHEET			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.
The following section must be completed by a planning official from each county and city listed ***unless*** *your project will be located* ***entirely within city limits****. In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. **Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below.** If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide requested information.

☐ *Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):_____. Go to section b) on reverse side.*

☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.* ***Note:*** ***Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)***

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies: Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

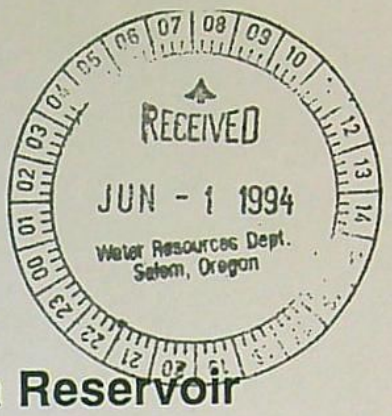
WRD Applicant Name: Windhurst Road Subdistrict

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos

Staff Contact: Patty Evernden Phone: 396-3121

Application No. R-69708 amendment Part 2 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503
Bandon, *City* Oregon *State* 97411 *Zip* (503) 347-~~3663~~ 3062 *Daytime Phone No.*

I (We) make application for a permit to construct Four *reservoir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: Pumped from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 7 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: All reservoirs will be Excavated off-channel - no outlet conduits are planned.

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:* Primary cranberry use, primary agricultural use, supplemental irrigation, and supplemental cranberry use.

Haga Res
1, 2, 3, 4

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

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* A 12" diameter pipe through the dikes.

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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* XX *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* XX *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?* No *. 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: Other property owners involved:

Rogee Forest Products, Bandon, Or. 97411

Coos County Highway Department, Coquille, Or.

This subdistrict is a part of the Bandon Cranberry Water Control District.

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.

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.

Ronny O. Haga
Signature of Applicant

5-24-94
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 _____, Oregon, on the 1 day of June, 1994, at 8 o'clock, A M.

APPLICATION NO: _____

A:APPFORM 9/89

Planning Official Initials _____

Description of Water Use

RECEIVED
JUN 21 1994
WATER RESOURCES
SALEM, OREGON

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: Windhurst Road SubDistrict
Address: P.O. Box 503
Bandon, Oregon 97411

Phone: (503) 347-~~3663~~ 3062

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- ☐ Irrigation (crop type, golf course, nursery or greenhouse): _____
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): _____
- ☐ Residential (# units, single or multi-family, # lots if partition or subdivision): _____
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- ☐ Institutional (i.e., school, library, etc.): _____
- ☐ Mining (aggregate, metal, open pit, placer, etc.): _____
- ☐ Recreation (park, campsite, pond, etc.) _____
- ☐ Fish and Wildlife (pond, hatchery, etc.) _____
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☒ Other (Name and list key characteristics): Cranberry use

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	_____ Cubic feet per second. _____ Gallons per minute. 17.0 Acre-Feet
☒ Reservoir or pond	
☐ Ground Water	

Water Resources Department, 3850 Portland Rd. NE, Salem, OR 97310
Phone: 378-3671

Version: 8/30/90

WINDHURST ROAD SUB DISTRICT
HAGA RESERVOIR APPLICATION
SUPPLEMENTAL SHEET

TOWNSHIP	RANGE	SECTION	TAX LOT	DIVERTED	CONVEYED	USED
29S	14W	3	900	X	X	
		4	800		X	X
		4	700		X	X
		4	500		X	X

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

RECEIVED
JUN 1 1994
WATER RES. DEPT.
SALEM, OR.

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon *State:* Or *Zip:* 97411 *Day Phone:* (503) 347-~~3660~~ 3062

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use , or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
	SEE SUPPLEMENTAL SHEET			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

The following section must be completed by a planning official from ***each*** *county and city listed* ***unless*** *your project will be located* ***entirely within city limits****. In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

For Local Government Use Only

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a) Check the appropriate box below and provide requested information.

☐ *Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):* _____. *Go to section b) on reverse side.*

☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.* ***Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)***

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: Windhurst Road Subdistrict

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos

Staff Contact: Patty Evenden Phone: 396-3121

Signature: Patty Evenden Date of Information Request: 5/26/94

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: _____ *Date:* _____

Title: _____ *Phone:* _____

Signature: _____

Local governments are invited to express special land use concerns or make recommendations to the Department regarding this proposed use of water below, or on a separate sheet. For additional information call Roberta Jortner or Rick Bastasch at 378-3671.

Additional Comments:

Oregon Water Resources Department
3850 Portland Rd. NE
Salem, OR 97310
378 - 3671

Application No. R-60708 amendment part 3 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503

Bandon, Oregon 97411 (503) 347-~~3663~~ 3062
City *State* *Zip* *Daytime Phone No.*

I (We) make application for a permit to construct Bee-Sting *reservoir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: Pumped from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 25 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: An 8" valved control Conduit under the highest portion of the dam.

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:* Primary cranberry use, primary agricultural use, supplemental irrigation and supplemental cranberry use.

Bee Sting Res

4. ***THE AMOUNT OF WATER*** *to be stored is:* 23 *acre-feet.*
The area submerged by the reservoir, when filled, will be 2 *acres,*
and the maximum depth of water will be 23 *feet.*

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* An excavated trapezoidal earthen spillway around the abutment. Bottom width 4 feet minimum, with 2:1 side slopes.

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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* XX *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* XX *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?* No *. 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: Other property owners involved:

Rogge Forest Products, Bandon, Oregon 97411

Coos County Highway Department, Coquille, Oregon

Engineered plans and specifications will be prepared upon receipt of a Favorable Technical Review to Windhurst Road SubDistrict.

Bee-Sting reservoir will be located off-channel.

This subdistrict is a part of the Bandon Cranberry Water Control District.

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.

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.

Ronney O Rogge — *Signature of Applicant*

5-24-94 — *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 _____, Oregon, on the ___1___ day of ___June___, 19_94_, at ___8___ o'clock, _A_ M.

APPLICATION NO: _____

A:APPFORM 9/89

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

RECEIVED
JUN - 1994
WATER RESOURCES DEPT
SALEM, OREGON

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon *State:* Or. *Zip:* 97411 *Day Phone:* (503) 347-~~3363~~ 3062

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use, or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply: Water Diverted	Water Conveyed	Water Use
	SEE SUPPLEMENTAL SHEET			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.
*The following section must be completed by a planning official from each county and city listed **unless** your project will be located **entirely within city limits**. In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. **Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below.** If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide requested information.

☐ *Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):_____. Go to section b) on reverse side.*

☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. **Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)***

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies: Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: Windhurst Road District

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Cos

Staff Contact: Patty EVERNDEN Phone: 396-3101

HAGA RESERVOIR APPLICATION
SUPPLEMENTAL SHEET

RESERVOIR No.	SURFACE ACRES	DEPTH	STORAGE (ACRE FEET)
No. H - 1	2.6	9.0	9.1
No. H - 2	0.8	10.0	5.0
No. H - 3	0.5	10.0	2.9
No. H - 4	0.6	13.0	6.0

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

Planning Official Initials _____

Description of Water Use

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

RECEIVED
JUN - 1 1994
WATER RESOURCES
SALEM, OREGON

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: Windhurst Road SubDistrict
Address: P.O. Box 503
Bandon, Oregon 97411

Phone: (503) 347 ~~3663~~ 3062

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- ☐ Irrigation (crop type, golf course, nursery or greenhouse): _____
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): _____
- ☐ Residential (# units, single or multi-family, # lots if partition or subdivision): _____
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- ☐ Institutional (i.e., school, library, etc.): _____
- ☐ Mining (aggregate, metal, open pit, placer, etc.): _____
- ☐ Recreation (park, campsite, pond, etc.) _____
- ☐ Fish and Wildlife (pond, hatchery, etc.) _____
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☒ Other (Name and list key characteristics): Cranberry use

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	_____ Cubic feet per second. _____ Gallons per minute. 23 Acre-Feet
☒ Reservoir or pond	
☐ Ground Water	

Water Resources Department, 3850 Portland Rd. NE, Salem, OR 97310
Phone: 378-3671

Version: 8/30/90

WINDHURST ROAD SUB DISTRICT
BEE STING RESERVOIR APPLICATION
SUPPLEMENTAL SHEET

TOWNSHIP	RANGE	SECTION	TAX LOT	DIVERTED	CONVEYED	USED
29S	14W	3	900	X	X	
		4	800		X	
		4	700		X	X
		4	500		X	X
		4	400		X	X
		4	100		X	X
		4	200		X	X
		4	300		X	X
		4	3400		X	X

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

Application No. R-67708 amendment Part 3 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503

Bandon, (City) Oregon (State) 97411 (Zip) (503) 347-~~3663~~ 3062 (Daytime Phone No.)

I (We) make application for a permit to construct Bee-Sting *reservoir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: Pumped from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 25 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: An 8" valved control Conduit under the highest portion of the dam.

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:* Primary cranberry use, primary agricultural use, supplemental irrigation and supplemental cranberry use.

Bee Sting Res

4. ***THE AMOUNT OF WATER*** *to be stored is:* 23 *acre-feet.*
The area submerged by the reservoir, when filled, will be 2 *acres,*
and the maximum depth of water will be 23 *feet.*

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* An excavated trapezoidal earthen spillway around the abutment. Bottom width 4 feet minimum, with 2:1 side slopes.

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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* XX *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* XX *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?* No *. 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: Other property owners involved:

Rogge Forest Products, Bandon, Oregon 97411

Coos County Highway Department, Coquille, Oregon

Engineered plans and specifications will be prepared upon receipt of a Favorable Technical Review to Windhurst Road SubDistrict.

Bee-Sting reservoir will be located off-channel.

This subdistrict is a part of the Bandon Cranberry Water Control District.

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.

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.

Connie O Rogge
Signature of Applicant

5-24-94
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 _____, Oregon, on the 1 day of June, 1994, at 8 o'clock, A M.

APPLICATION NO: _____

A:APPFORM 9/89

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon *State:* Or. *Zip:* 97411 *Day Phone:* (503) 347-~~3363~~ 3062

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use , or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
	SEE SUPPLEMENTAL SHEET			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

The following section must be completed by a planning official from ***each*** *county and city listed* ***unless*** *your project will be located* ***entirely within city limits.*** *In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. **Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below.** If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide requested information.

☐ *Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):_____. Go to section b) on reverse side.*

☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.* ***Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)***

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: Windhurst Road District

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos

Staff Contact: Patty Evenden Phone: 396-3121

Signature: Pevenden Date of Information Request: 5/26/94

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: _____ *Date:* _____

Title: _____ *Phone:* _____

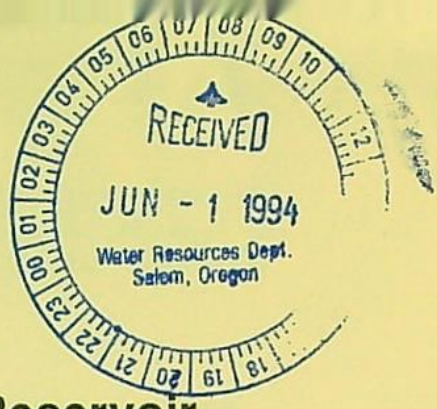
Signature: _____

Local governments are invited to express special land use concerns or make recommendations to the Department regarding this proposed use of water below, or on a separate sheet. For additional information call Roberta Jortner or Rick Bastasch at 378-3671.

Additional Comments:

Oregon Water Resources Department
3850 Portland Rd. NE
Salem, OR 97310
378 - 3671

Application No. R - 69708 amendment Part 4 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503

Bandon, Oregon 97411 (503) 347-~~3663~~ 3067
City *State* *Zip* *Daytime Phone No.*

I (We) make application for a permit to construct Eight *reservoir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: Pumped from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 4.0 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: All reservoirs will be excavated off-channel. No outlet conduits are planned.

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:* Primary Cranberry Use, Primary Agricultural use, Supplemental irrigation, supplemental cranberry use.

Scherer Res
1, 2, 3, 4, 5, 6, 7, 8

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

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* 12" diameter pipe through the dikes.

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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* XX *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* XX *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?* No *. 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: Other property owners involved:

Rogge Forest Products, Bandon, Oregon 97411

Coos County Highway Department, Coquille, Or.

City of Bandon, City Hall, Bandon, Or. 97411

This subdistrict is a part of the Bandon Cranberry Water Control District.

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.

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.

Conney O. Hagen
Signature of Applicant

5-24-94
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 _____, Oregon, on the 1 day of June, 1994, at 8 o'clock, A M.

APPLICATION NO: _____

A:APPFORM 9/89

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

RECEIVED
JUL - 1 1994
WATER RESOURCES
SALEM, OREGON

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Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon, *State:* Or. *Zip:* 97411 *Day Phone:* (503) 347-~~3663~~ 8062

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use , or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
	SEE SUPPLEMENTAL SHEET			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

The following section must be completed by a planning official from each county and city listed unless your project will be located entirely within city limits. In this case, only the city planning agency must complete this form. Please request extra forms as needed.

For Local Government Use Only

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a) Check the appropriate box below and provide requested information.

☐ *Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):_____. Go to section b) on reverse side.*

☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)*

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

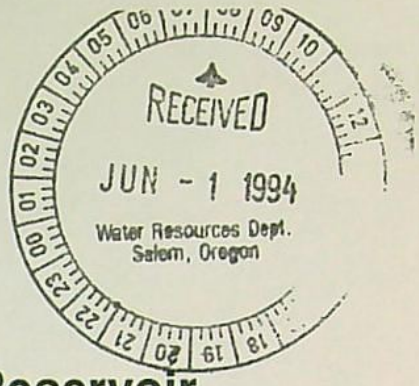
WRD Applicant Name: Windhurst Road Subdistrict

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Ocos

Staff Contact: Patty Evenden Phone: 396-3191

Application No. R-69708 amendment part 4 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark

Mailing Address: P.O. Box 503
Bandon, Oregon
City *State*

Scherer Res
1, 2, 3, 4, 5, 6, 7, 8

~~3663~~ 3062
ıtime Phone No.

I (We) make application for a permit to construct Eight [redacted] *voir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: Pumped from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 4.0 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: All reservoirs will be excavated off-channel. No outlet conduits are planned.

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:* Primary Cranberry Use, Primary Agricultural use, Supplemental irrigation, supplemental cranberry use.

8. *Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership?* No *. 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: Other property owners involved:

Rogge Forest Products, Bandon, Oregon 97411

Coos County Highway Department, Coquille, Or.

City of Bandon, City Hall, Bandon, Or. 97411

This subdistrict is a part of the Bandon Cranberry Water Control District.

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.

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.

Ronney O. Hoga — *Signature of Applicant*

5-24-94 — *Date*

Signature of Co-Applicant, if any

Date

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

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* 12" diameter pipe through the dikes.

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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.

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_____ *Applicant* XX *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* XX *CWRE* _____ *Other (Identify in REMARKS section)*

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

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

_____

_____

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

_____ , 19____.

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

_____

Water Resources Director

*By:*_____

This instrument was first received in the office of the Water Resources Director at _____, Oregon, on the ___1___ day of ___June___, 19_94_, at ___8___ o'clock, _A_ M.

APPLICATION NO: _____

A:APPFORM 9/89

SCHERER RESERVOIR APPLICATION
SUPPLEMENTAL SHEET

RESERVOIR No.	SURFACE ACRES	DEPTH	STORAGE (ACRE FEET)
No. S - 1	0.4	10.0	1.4
No. S - 2	0.4	10.0	1.4
No. S - 3	0.9	10.0	5.6
No. S - 4	1.0	10.0	7.0
No. S - 5	0.5	8.0	1.5
No. S - 6	0.7	8.0	4.2
No. S - 7	1.0	11.0	7.7
No. S - 8	0.5	12.0	4.2

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

Planning Official Initials _____

Description of Water Use

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: Windhurst Road SubDistrict
Address: P.O. Box 503
Bandon, Oregon 97411

Phone: (503) 347-~~3663~~ 3062

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- ☐ Irrigation (crop type, golf course, nursery or greenhouse): _____
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): _____
- ☐ Residential (# units, single or multi-family, # lots if partition or subdivision): _____
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- ☐ Institutional (i.e., school, library, etc.): _____
- ☐ Mining (aggregate, metal, open pit, placer, etc.): _____
- ☐ Recreation (park, campsite, pond, etc.) _____
- ☐ Fish and Wildlife (pond, hatchery, etc.) _____
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☒ Other (Name and list key characteristics): Cranberry use

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	_____ Cubic feet per second. _____ Gallons per minute. 33.0 Acre-Feet
☒ Reservoir or pond	
☐ Ground Water	

Water Resources Department, 3850 Portland Rd. NE, Salem, OR 97310
Phone: 378-3671

Version: 8/30/90

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

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WATER RESOURCES DEPT
SALEM, OREGON

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon, *State:* Or. *Zip:* 97411 *Day Phone:* (503) 347-~~3663~~ 3062

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use , or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
	SEE SUPPLEMENTAL SHEET			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.
The following section must be completed by a planning official from ***each*** *county and city listed* ***unless*** *your project will be located* ***entirely within city limits.*** *In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. **Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below.** If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide requested information.

☐ *Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):_____. Go to section b) on reverse side.*

☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.* ***Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)***

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: Windhurst Road Subdistrict

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos

Staff Contact: Patty EVERNDEN Phone: 396-3121

Signature: Pevernden Date of Information Request: 5/26/94

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: _____ *Date:* _____

Title: _____ *Phone:* _____

Signature: _____

Local governments are invited to express special land use concerns or make recommendations to the Department regarding this proposed use of water below, or on a separate sheet. For additional information call Roberta Jortner or Rick Bastasch at 378-3671.

Additional Comments:

Oregon Water Resources Department
3850 Portland Rd. NE
Salem, OR 97310
378 - 3671

WINDHURST ROAD SUB DISTRICT
SCHERER RESERVOIR APPLICATION
SUPPLEMENTAL SHEET

TOWNSHIP	RANGE	SECTION	TAX LOT	DIVERTED	CONVEYED	USED
29S	14W	3	900	X	X	
		4	800		X	
		4	700		X	
		4	500		X	
		4	400		X	X
		5	100		X	X
		5	200		X	X
		5	300		X	X
		5	3400		X	X

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JUN - 1 1994
WATER RESOURCES DEPT
SALEM, OREGON

MANICKE?

Application No. R-69708 Amendment part 5 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503

Bandon, (City) Oregon (State) 97411 (Zip) (503) 347-~~3663~~ 3062 (Daytime Phone No.)

I (We) make application for a permit to construct Four *reservoir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: By pumping from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 9.9 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: All reservoirs will be excavated - no outlet conduits are planned.

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:* Primary cranberry use, primary agricultural use, supplemental irrigation and supplemental cranberry use.

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1, 2, 3, 4

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

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* Trapezoidal earthen spillways - 4' wide bottom width minimum with 2:1 side slopes.

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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* XX *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* XX *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?* No *. 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: Other property owners involved are:

Rogge Forest Products, Bandon, Oregon 97411

Coos County Highway Department, Coquille, Oregon

Lowell E. & Mary E. Meyer, P.O. Box 582, Bandon, Oregon 97411

The hydraulic failure depth of all four reservoirs will be less than 10 feet.

All four reservoirs will be located off-channel.

The subdistrict is a part of the Bandon Cranberry Water Control District.

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.

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.

Connie O. Rogge — *Signature of Applicant*

3-24-94 — *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 _____, Oregon, on the 1 day of June, 19 94, at 8 o'clock, A M.

APPLICATION NO: _____

A:APPFORM 9/89

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

RECEIVED
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WATER RESOURCES DEPT.
SALEM, OREGON

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Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon *State:* Or *Zip:* 97411 *Day Phone:* (503) 347-~~3663~~ 3062

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use, or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
	See Supplemental Sheet			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

*The following section must be completed by a planning official from **each** county and city listed **unless** your project will be located **entirely within city limits.** In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

For Local Government Use Only

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a) Check the appropriate box below and provide requested information.

☐ *Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):_____. Go to section b) on reverse side.*

☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. **Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)***

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: Windhurst Road Subdistrict

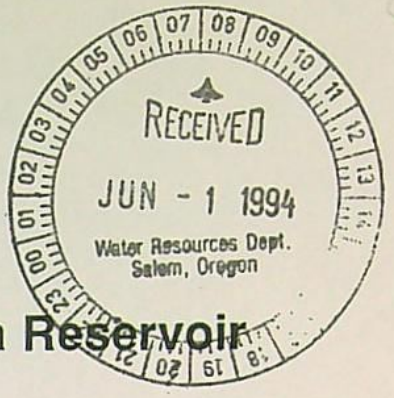
This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos

Staff Contact: Patty Evernden Phone: 396-3121

MANICKE?

Application No. R-69708 Amendment Part 5 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503

Bandon, Oregon 97411 (503) 347-~~3663~~ 3062
City *State* *Zip* *Daytime Phone No.*

I (We) make application for a permit to construct Four *reservoir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: By pumping from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 9.9 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: All reservoirs will be excavated - no outlet conduits are planned.

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:* Primary cranberry use, primary agricultural use, supplemental irrigation and supplemental cranberry use.

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

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* Trapezoidal earthen spillways - 4' wide bottom width minimum with 2:1 side slopes.

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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* XX *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* XX *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?* No *. 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: Other property owners involved are:

Rogge Forest Products, Bandon, Oregon 97411

Coos County Highway Department, Coquille, Oregon

Lowell E. & Mary E. Meyer, P.O. Box 582, Bandon, Oregon 97411

The hydraulic failure depth of all four reservoirs will be less than 10 feet.

All four reservoirs will be located off-channel.

The subdistrict is a part of the Bandon Cranberry Water Control District.

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.

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.

Ronnie O. Rogge — *Signature of Applicant*

5-24-94 — *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 _____, Oregon, on the 1 day of June, 19 94, at 8 o'clock, A M.

APPLICATION NO: _____

A:APPFORM 9/89

MANICKE RESERVOIR APPLICATION
SUPPLEMENTAL SHEET

RESERVOIR No.	SURFACE ACRES	DEPTH	STORAGE (ACRE FEET)
No. M - 1	1.1	11.5	9.1
No. M - 2	1.0	12.0	9.1
No. M - 3	1.0	12.0	9.1
No. M - 4	0.3	10.5	2.7

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WATER RESOURCES
SALEM, OREGON

Planning Official Initials: _____

Description of Water Use

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: Windhurst Road SubDistrict
Address: P.O. Box 503
Bandon, Oregon 97411

Phone: (503) 347-~~3663~~ 3062

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- ☐ Irrigation (crop type, golf course, nursery or greenhouse): _____
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): _____
- ☐ Residential (# units, single or multi-family, # lots if partition or subdivision): _____
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- ☐ Institutional (i.e., school, library, etc.): _____
- ☐ Mining (aggregate, metal, open pit, placer, etc.): _____
- ☐ Recreation (park, campsite, pond, etc.) _____
- ☐ Fish and Wildlife (pond, hatchery, etc.) _____
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☒ Other (Name and list key characteristics): Cranberry use

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	_____ Cubic feet per second. _____ Gallons per minute. 30.0 Acre-Feet
☒ Reservoir or pond	
☐ Ground Water	

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JUN - 1 1994
WATER RESOURCES
SALEM, OREGON

Water Resources Department, 3850 Portland Rd. NE, Salem, OR 97310
Phone: 378-3671

Version: 8/30/90

WINDHURST ROAD SUB DISTRICT
MANICKE RESERVOIR APPLICATION
SUPPLEMENTAL SHEET

TOWNSHIP	RANGE	SECTION	TAX LOT	DIVERTED	CONVEYED	USED
29S	14W	3	900	X	X	
		4	800		X	
		4	700		X	
		4	200		X?	
		4	100		X?	
28S	14W	33	1100		X	
		33	800		X	X
		32	400		X	X
		32	100		X	X

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WATER RESOURCES DEPT.
SALEM, OREGON

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

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JUN 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

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Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon *State:* Or *Zip:* 97411 *Day Phone:* (503) 347-~~3663~~ 3062

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Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
	See Supplemental Sheet			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

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Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: Windhurst Road Subdistrict

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos

Staff Contact: Patty Guernden Phone: 396-3121

Signature: Guernden Date of Information Request: 5/26/94

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: _____ *Date:* _____

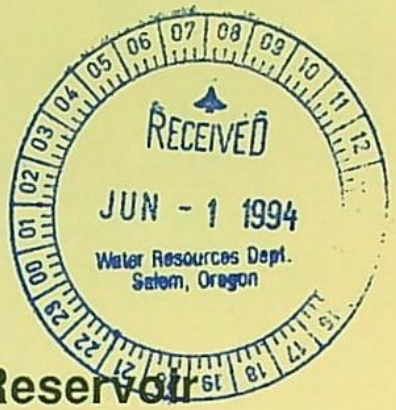
Title: _____ *Phone:* _____

Signature: _____

Local governments are invited to express special land use concerns or make recommendations to the Department regarding this proposed use of water below, or on a separate sheet. For additional information call Roberta Jortner or Rick Bastasch at 378-3671.

Additional Comments:

Application No. R-69708 Amendment Part 6 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503

Bandon, (City) Oregon (State) 97411 (Zip) (503) 347-~~3663~~ 3062 (Daytime Phone No.)

I (We) make application for a permit to construct Five *reservoir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: Pumped from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 6.0 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: All reservoirs will be excavated off-channel - no outlet conduits are planned.

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:* Primary cranberry use, primary agricultural use, supplemental irrigation, and supplemental cranberry use.

Richert Res 1, 2, 3, 4, 5

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

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* 12" diameter pipe through the dikes.

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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.

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REMARKS: Other property owners involved:

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Coos County Highway Department, Coquille, Oregon

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Rodney O. Rogge
Signature of Applicant

5-24-84
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:

_____

_____

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

_____

Water Resources Director

*By:*_____

This instrument was first received in the office of the Water Resources Director at _____, Oregon, on the 1 day of June, 19 94, at 8 o'clock, A M.

APPLICATION NO: _____

A:APPFORM 9/89

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

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1994
WATER RESOURCES DEPT.
SALEM, OREGON

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Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply: Water Diverted	Water Conveyed	Water Use
	SEE SUPPLEMENTAL SHEET			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

*The following section must be completed by a planning official from **each** county and city listed **unless** your project will be located **entirely within city limits.** In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. **Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below.** If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide requested information.

☐ *Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):_____. Go to section b) on reverse side.*

☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. **Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)***

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies: Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

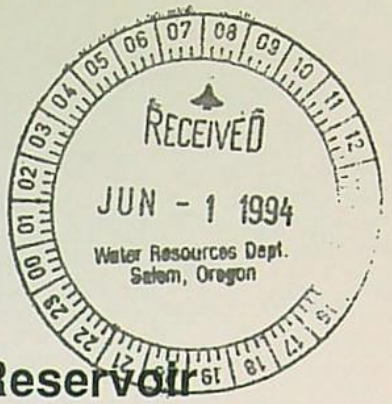
WRD Applicant Name: Windhurst Road Subdistrict

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos

Staff Contact: Patty EVERNDEN Phone: 396-3121

Application No. R-69708 Amendment Part 6 of 6



State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Windhurst Road SubDistrict
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503

Bandon, (City) Oregon (State) 97411 (Zip) (503) 347-~~3663~~ 3062 (Daytime Phone No.)

I (We) make application for a permit to construct Five *reservoir and store the following described waters of the State of Oregon:*

1. ***SOURCE OF WATER*** *for the proposed use:* Bills Creek ,
a tributary of Bear Creek .
If not in channel of a stream, state how it is to be filled: Pumped from Bills Creek

2. ***THE DAM:*** *The maximum height of the structure will be* 6.0 *feet above stream bed or ground surface at the centerline.*
The dam will be (check one) XX *earthfill,* _____ *concrete,* _____ *flashboard,* _____ *other.*
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: All reservoirs will be excavated off-channel - no outlet conduits are planned.

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:* Primary cranberry use, primary agricultural use, supplemental irrigation, and supplemental cranberry use.

Richert Res
1, 2, 3, 4, 5

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

5. ***SPILLWAY DESCRIPTION*** *(location and dimensions). State whether over or around the dam.* 12" diameter pipe through the dikes.

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

Proposed date construction work will begin October, 1994

Proposed date construction work will be completed October, 1998

Proposed date water use will be completed October, 2001

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* XX *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* XX *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?* No *. 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: Other property owners involved:

Rogge Forest Products, Bandon, Oregon 97411

Coos County Highway Department, Coquille, Oregon

This subdistrict is a part of the Bandon Cranberry Water Control District.

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.

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.

Rodney O. Rogge — *Signature of Applicant*

5-24-84 — *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 _____, Oregon, on the 1 day of June, 19 94, at 8 o'clock, A M.

APPLICATION NO: _____

A:APPFORM 9/89

RICHERT RESERVOIR APPLICATION
SUPPLEMENTAL SHEET

RESERVOIR No.	SURFACE ACRES	DEPTH	STORAGE (ACRE FEET)
No. R - 1	0.9	10.0	5.6
No. R - 2	1.0	10.0	9.1
No. R - 3	0.7	12.0	9.1
No. R - 4	0.7	11.0	5.6
No. R - 5	0.6	13.0	5.6

RECEIVED
JUN - 1 1994
WATER RESOURCES
SALEM, OREGON

Planning Official Initials _____

Description of Water Use

RECEIVED
JUN 1 1994
WATER RESOURCES
SALEM, OREGON

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: Windhurst Road Subdistrict
Address: P.O. Box 503
Bandon, Or. 97411
Phone: (503) 347-~~3663~~ 3062

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- ☐ Irrigation (crop type, golf course, nursery or greenhouse): _____
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): _____
- ☐ Residential (# units, single or multi-family, # lots if partition or subdivision): _____
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- ☐ Institutional (i.e., school, library, etc.): _____
- ☐ Mining (aggregate, metal, open pit, placer, etc.): _____
- ☐ Recreation (park, campsite, pond, etc.) _____
- ☐ Fish and Wildlife (pond, hatchery, etc.) _____
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☒ Other (Name and list key characteristics): Cranberry use

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	_____ Cubic feet per second. _____ Gallons per minute. 35.0 Acre-Feet
☒ Reservoir or pond	
☐ Ground Water	

Water Resources Department, 3850 Portland Rd. NE, Salem, OR 97310
Phone: 378-3671

Version: 8/30/90

WINDHURST ROAD SUB DISTRICT
RICHERT RESERVOIR APPLICATION
SUPPLEMENTAL SHEET

TOWNSHIP	RANGE	SECTION	TAX LOT	DIVERTED	CONVEYED	USED
29S	14W	3	900	X	X	
		4	800		X	
		4	700		X	
		9	800		X	
		9	700		X	X
		9	200		X	X

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT
SALEM, OREGON

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

RECEIVED
JUN 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: Windhurst Road SubDistrict
Address: P.O. Box 503
City: Bandon, *State:* Or *Zip:* 97411 *Day Phone:* (503) 347-~~3663~~ 3062

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use , or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
	SEE SUPPLEMENTAL SHEET			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.
The following section must be completed by a planning official from ***each*** *county and city listed* ***unless*** *your project will be located* ***entirely within city limits.*** *In this case, only the city planning agency must complete this form. Please request extra forms as needed.*

For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. **Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below.** If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide requested information.

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☐ *Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.* ***Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)***

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: Windhurst Road Subdistrict

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: Coos

Staff Contact: PATTY EVERNDEN Phone: 396-3121

Signature: PEverenden Date of Information Request: 5/26/94

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: _____ *Date:* _____

Title: _____ *Phone:* _____

Signature: _____

Local governments are invited to express special land use concerns or make recommendations to the Department regarding this proposed use of water below, or on a separate sheet. For additional information call Roberta Jortner or Rick Bastasch at 378-3671.

Additional Comments:

S=2·8
P=10·0

S=2·2
P=20·0

S=13·0

S=5·0

FERRI CREEK

32 33 33 34

32
33
T28S
R14W

3
4
5
9
T29S
R14W

32 33 33 34

5 4 4 3

S=0·4
P=1·0

GEIGER CREEK

S=3·6
P=13·0
S=0·3

S=5·0
P=1·0

S=6·0
P=11·0

S=0·25

W. 1/4 COR.
SECTION 3

P=5·0

P=3·10

MCLOUGHLIN BLVD

S=13·1
P=2·0

S=0·8
P=0·2

5 4 4 3

8 9 9 10

JOHNSON CREEK

P=5·0

S=3·0
P=2·5

S=7·3
P=2·5

THE PURPOSE OF THIS MAP
RIGHT IT IS NOT INTENDE
LOCATION OF PROPERTY O

DATA FOR WATER RIGHT FILING:

RECEIVED
JUN 30 1988
WATER RESOURCES DEPT.
SALEM, OREGON

NAME	T	R	S	1/4,1/4	IRRIGATED ACREAGE NEW	Q	SUPPL.	Q	TEMPERATURE CONTROL NEW	Q	SUPPL.	Q	FLOOD HARVEST NEW	Q	SUPPL.	Q	TOTAL ACREAGE	IRRIGATION: NEW	CFS
SCHERER, W. R.	29S	14W	5	SE/NE	0.00	0.00	0.30	0.01	0.30	0.05	0.00	0.00	0.30	0.02	0.00	0.00	0.30		
				NE/SE	1.00	0.03	5.00	0.13	6.00	0.90	0.00	0.00	6.00	0.30	0.00	0.00	6.00		
			4	NW/SW	11.00	0.28	6.00	0.15	17.00	2.55	0.00	0.00	17.00	0.85	0.00	0.00	17.00	1.00	0.01
	SUB TOTAL:				12.00	0.30	11.30	0.28	23.30	3.49	0.00	0.00	23.30	1.17	0.00	0.00	23.30		
SCHERER, C. G.	29S	14W	5	NW/NE	0.30	0.01	0.10	0.00	0.40	0.06	0.00	0.00	0.40	0.02	0.00	0.00	0.40		
				NE/NE	1.00	0.03	0.40	0.01	1.40	0.21	0.00	0.00	1.40	0.07	0.00	0.00	1.40		
				SW/NE	0.00	0.00	2.00	0.05	2.00	0.30	0.00	0.00	2.00	0.10	0.00	0.00	2.00	1.00	0.01
				SE/NE	13.00	0.33	3.60	0.09	16.60	2.49	0.00	0.00	16.60	0.83	0.00	0.00	16.60		
	SUB TOTAL				14.30	0.36	6.10	0.15	20.40	3.06	0.00	0.00	20.40	1.02	0.00	0.00	20.40		
HAGA, R. O.	29S	14W	3	NW/SW	3.00	0.08	0.00	0.00	3.00	0.45	0.00	0.00	3.00	0.15	0.00	0.00	3.00		
			4	NW/SW	0.00	0.00	0.25	0.01	0.00	0.00	0.25	0.04	0.00	0.00	0.25	0.01	0.25		
				SW/SW	2.00	0.05	13.10	0.33	2.00	0.30	13.10	1.96	2.00	0.10	13.10	0.66	15.10	1.00	0.01
				SE/SW	0.20	0.01	0.80	0.02	0.20	0.03	0.80	0.12	0.20	0.01	0.80	0.04	1.00		
				NE/SE	5.00	0.13	0.00	0.00	5.00	0.75	0.00	0.00	5.00	0.25	0.00	0.00	5.00		
	SUB TOTAL:				10.20	0.26	14.15	0.35	10.20	1.53	14.15	2.12	10.20	0.51	14.15	0.71	24.35		
RICHERT, D. F.	29S	14W	9	NW/NE	5.00	0.13	0.00	0.00	5.00	0.75	0.00	0.00	5.00	0.25	0.00	0.00	5.00		
				NE/NE	2.50	0.06	3.00	0.08	5.50	0.83	0.00	0.00	5.50	0.28	0.00	0.00	5.50		
				SW/NE	2.50	0.06	7.30	0.18	9.80	1.47	0.00	0.00	9.80	0.49	0.00	0.00	9.80	1.00	0.01
	SUB TOTAL:				10.00	0.25	10.30	0.26	20.30	3.05	0.00	0.00	20.30	1.02	0.00	0.00	20.30		
MEYER, L. E.	28S	14W	33	NW/SW	0.00	0.00	13.00	0.33	0.00	0.00	13.00	1.95	0.00	0.00	13.00	0.65	13.00		
				NE/SW	0.00	0.00	5.00	0.13	0.00	0.00	5.00	0.75	0.00	0.00	5.00	0.25	5.00		
	SUB TOTAL:				0.00	0.00	18.00	0.45	0.00	0.00	18.00	2.70	0.00	0.00	18.00	0.90	18.00		
MANICKE, B. L.	28S	14W	32	NE/NE	10.00	0.25	2.80	0.07	10.00	1.50	2.80	0.42	10.00	0.50	2.80	0.14	12.80	1.00	0.01
				SE/NE	20.00	0.50	2.20	0.06	20.00	3.00	2.20	0.33	20.00	1.00	2.20	0.11	22.20		
	SUB TOTAL:				30.00	0.75	5.00	0.13	30.00	4.50	5.00	0.75	30.00	1.50	5.00	0.25	35.00		
********** CRANBERRY WATER USES TOTALS **********																		REGULAR IRRIGATION TOTALS:	
TOTAL ACREAGE AND Q FOR SYSTEM:					76.50	1.91	64.85	1.62	104.20	15.63	37.15	5.57	104.20	5.21	37.15	1.86	141.35	5.00	0.05

TOTAL PRIMARY CRANBERRY IRR.:	76.50	TOTAL TEMPERATURE CONTROL ACREAGE:	104.20	TOTAL FLOOD HARVEST ACREAGE:	104.20
TOTAL PRIMARY CFS:	1.91	TOTAL PRIMARY T. C. CFS:	15.63	TOTAL PRIMARY F.H. CFS:	45.00
TOTAL SUPPL. CRANBERRY IRR.:	64.85	TOTAL SUPPL. T. C. ACREAGE:	37.15	TOTAL SUPPL. F. H. ACREAGE:	37.15
TOTAL SUPPL. CFS:	1.62	TOTAL SUPPL. T. C. CFS:	5.57	TOTAL SUPPL. F.H. CFS:	1.86

TOTAL CFS (BY POLICY): 71.64 cfs APPLICATION: 34.79 cfs, being 10 cfs for flood harvest, 21.20 cfs for temperature control, 3.53 cfs for cranberry irrigation, and 0.05 cfs for irrigation.
The application quantity is less because we will not exceed 10 cfs at any given time for flood harvesting water.

Application No. 69654
Permit No.

Certified Water Right Examiner
#054 WRE
James F. Gosson
Nov. 19, 1987
STATE OF OREGON

Oregon Water Resources Department
Water Right Services Division

Water Rights Application
Number R-69708

FINAL ORDER

Extension of Time for Permit Number R-12928
Permit Holder: Windhurst Road Water Corporation

Permit Information

Application:	R-69708
Permit:	R-12928
Basin:	17 – South Coast / Watermaster District 19
Date of Priority:	September 6, 1988, for 100 acre-feet and June 1, 1994, for 514 acre-feet (AF)
Source of Water:	Bill Creek, a tributary of Bear Creek
Purpose of Use:	Stored water to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614.0 acre-feet (AF) each year, November 1 through May 31

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

Appeal Rights

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Application History

Permit R-12928 was issued by the Department on October 10, 2000. The permit called for actual construction to begin by October 10, 2001 and complete application of water to

beneficial use by October 1, 2005. The most recent extension authorized complete application of water to beneficial use by October 1, 2014. On September 26, 2014, Windhurst Road Water Corporation submitted to the Department an Application for Extension of Time for Permit R-12928. In accordance with OAR 690-315-0050(2), on November 18, 2014, the Department issued a Proposed Final Order proposing to extend the time to apply water to full beneficial use from October 1, 2014 to October 30, 2019. The protest period closed January 2, 2015, in accordance with OAR 690-315-0060(1). No protest was filed.

FINDINGS OF FACT

The Department adopts and incorporates by reference the findings in the Proposed Final Order dated November 18, 2014.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to no additional conditions.

CONCLUSION OF LAW

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

ORDER

The extension of time for Application R-69708, Permit R-12928, therefore, is approved. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 2014 to October 30, 2019.

DATED: January 9, 2015

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

- If you have any questions about statements contained in this document, please contact Permit Extension Specialist at (503) 986-0802.

- If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900

Mailing List for Extension FO Copies

FO Date: January 9, 2015

Application: R-69708
Permit: R-12928

Copies Mailed

By: BW
On: 1/9/2015

Original mailed to permit holder

Windhurst Road Water Corporation
P.O. Box 503
Bandon, OR 97411

Copies sent to:

1. WRD - App. File R-69708/ Permit R-12928

   Fee paid as specified under ORS 536.050 to receive copy:

2. None

   Receiving notification via e-mail FO available in WRIS for review
   (DONE BY EXTENSION SPECIALIST)

3. WRD - Watermaster District 19, Mitch Lewis

CASEWORKER: MAB

Oregon Water Resources Department
Water Right Services Division

PROPOSED FINAL ORDER

In the Matter of the Application for an Extension of Time for Permit R-12928, Water Right Application R-69708, in the name of Windhurst Road Water Corporation.

Permit Information	
Application:	R-69708
Permit:	R-12928
Basin:	17 – South Coast / Watermaster District 19
Date of Priority:	September 6, 1988, for 100 acre-feet and June 1, 1994, for 514 acre-feet (AF)
Source of Water:	Bill Creek, a tributary of Bear Creek
Purpose of Use:	Stored water to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614.0 acre-feet (AF) each year, November 1 through May 31

Please read this Proposed Final Order in its entirety* as it may contain additional conditions not included in the original permit*

In summary, the Department proposes to:

- Grant an extension of time to apply water to full beneficial use from October 1, 2005 2014 to October 30, 2019.[1]

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

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[1] Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use.

ACRONYM QUICK REFERENCE
Department – Oregon Water Resources Department
PFO – Proposed Final Order
cfs – cubic feet per second
gpm – gallons per minute
AF – acre-feet

AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(3) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

FINDINGS OF FACT

Background

1. Permit R-12928 was granted by the Department on October 10, 2000. The permit authorizes the storage of up to 614.0 AF of water, a cumulative maximum divided between 23 reservoirs diverted from Bill Creek, a tributary of Bear Creek, to be appropriated under Permit S-53703 for cranberry operations. The permit specified actual construction was to begin by October 10, 2001 and complete application of water was to be made on or before October 1, 2005.

2. A prior permit extension has been granted for Permit R-12928. The most recent extension resulted in the completion date for full application of water being extended to October 1, 2014.

3. The permit holder submitted an "Application for Extension of Time" to the Department

on September 26, 2014, requesting both the time to complete construction of the water system and the time to apply water to full beneficial use under the terms of Permit R-12928 be extended from October 1, 2014 to October 30, 2019. However, since the permit does not contain a specific deadline for completing construction, the Department needs to only consider an extension of the time to apply water to full beneficial use.

4. Notification of the Application for Extension of Time for Permit R-12928 was published in the Department's Public Notice dated October 7, 2014. No public comments were received regarding the extension application.

Review Criteria *[OAR 690-315-0040]*

The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0040. This determination shall consider the applicable requirements of ORS 537.230[2], 537.248[3] and/or 539.010(5)[4].

Complete Extension of Time Application *[OAR 690-315-0040(1)(a)]*

5. On September 26, 2014, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction *[OAR 690-315-0040(1)(b) and 690-315-0040(5)]*

6. Actual construction of the water system began prior to the October 10, 2001 deadline specified in the permit. In 1960 the Manicke reservoir #4 was constructed.

Duration of Extension *[OAR 690-315-0040(1)(c)]*

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

7. As of September 26, 2014, the remaining work to be completed consists of installing staff gages in Scherer and Haga, enlarge Scherer #1 and #2, completing Bee Sting reservoir, completing Richert #1 and #2, installing pumps and plumbing to Richert #1 and #2, completing Manicke and applying water to full beneficial use.

8. Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 30, 2019, to accomplish the application of water to beneficial use under the terms and conditions of Permit R-12928 is both reasonable and necessary.

Good Cause *[OAR 690-315-0040(1)(d)]*

The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0040(2).

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[2]ORS 537.230 applies to surface water permits only.

[3]ORS 537.248 applies to reservoir permits only.

[4]ORS 539.010(5) applies to surface water and ground water permits.

Reasonable Diligence of the Appropriator *[OAR 690-315-0040(2)(a)]*

The Department's determination of reasonable diligence shall consider the requirements set forth under OAR 690-315-0040(3)(a-d). In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:

Amount of Construction *[OAR 690-315-0040(3)(a)]*

9. Work was accomplished within the time allowed in the permit or previous extension as follows:

   a. Construction of the water system began prior to the October 10, 2001 deadline specified in the permit. In 1960 Manicke reservoir was constructed.

   b. Work was completed during the original development time frame under Permit R-12928. In 2001 the permit holder installed a pump, electrical and valves for Windhurst reservoir and partial excavation of Haga reservoir #1

   d. During the most recent extension period, being from October 1, 2005, to October 1, 2014, the following was accomplished:

      - Manicke completed 50% of extension to all ponds;
      - Scherer completed reservoir #7 and purchased staff gages;
      - Haga purchased staff gages;
      - Richert worked on construction of reservoir #1 and #2, purchased pumps and plumbing;
      - Final engineering certification was completed.

Beneficial Use of Water *[OAR 690-315-0040(3)(b)]*

10. The following beneficial use was made of the water during the permit or previous extension time limits:

   a. Since the issuance of Permit R-12928 on October 10, 2000, the permit holder has stored a total of 614 AF of water in 23 reservoirs that was appropriated under permit S-53703 for cranberry operation.

Compliance with Conditions *[OAR 690-315-0040(3)(c)]*

11. The water right permit holder's conformance with the permit or previous extension conditions.

   a. The Department has considered the permit holder's compliance with conditions, and has identified the following concerns: (1) annual reports of the amount of water used each month have not been received by the Department, (2) not all staff gages are installed.

b. In order to legally perfect the storage of water under this permit, the permit holder must demonstrate that all conditions of the permit have been satisfied.

Financial Investments to appropriate and Apply Water to a Beneficial Purpose *[OAR 690-315-0040(2)(b),(3)(d),(4)(d)]*

12. As of September 26, 2014, the permit holder has invested approximately $890,025, which is about 97 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional $24,000 investment is needed for the completion of this project.

Good Faith of the Appropriator *[OAR 690-315-0040(2)(c)]*

13. The Department has found good faith of the appropriator under Permit R-12928.

The Market and Present Demands for Water *[OAR 690-315-0040(2)(d-e)]*

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

14. The amount of water available to satisfy other affected water rights and scenic waterway flows; special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d); or the habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife *[OAR 690-315-0040(4)(a-c)]*.

    a. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit R-12928; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an application for a new water right is submitted. The points of diversion are located on Bill Creek, a tributary of Bear Creek, and are not located within a Withdrawn Area. Bill Creek, a tributary of Bear Creek is not located within or above a state or federal scenic waterway, however, it is located within an area ranked "highest" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife. The points of diversion are not in a location listed by the Department of Environmental Quality as a water quality limited stream.

15. Other economic interests dependent on completion of the project [OAR 690-315-0040(4)(e)].

a. None have been identified.

16. Other factors relevant to the determination of the market and present demand for water and power *[OAR 690-315-0040(4)(f)]*.

a. None have been identified.

Fair Return Upon Investment *[OAR 690-315-0040(2)(f)]*

17. Use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements *[OAR 690-315-0040(2)(g)]*

18. Delay in the development of this project was not caused by any other governmental requirements.

Unforeseen Events *[OAR 690-315-0040(2)(h)]*

19. Unforeseen events extended the length of time needed to fully develop and perfect Permit R-12928, in that one of the main partners of Windhurst Road Watering Corporation passed away in 2014.

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230(3).

2. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).

3. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

4. Full application of water to beneficial use can be accomplished by October 30, 2019[5], as required by OAR 690-315-0040(1)(c).

5. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant

[5]Pursuant to ORS 537.230(3), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and a new or revised claim of beneficial use as deemed appropriate by the Department.

and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Extend the time to apply water to beneficial use under Permit R-12928 from October 1, 2014 to October 30, 2019.

DATED: November 18, 2014

Dwight W. French, Administrator
Water Right Services Division

If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **January 2, 2015,** being 45 days from the date of publication of the proposed final order in the Department's weekly notice.

2. A written protest shall include:

   a. The name, address and telephone number of the petitioner;
   b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;

c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
e. Any citation of legal authority supporting the petitioner, if known;
f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
g. The applicant or non-applicant protest fee required under ORS 536.050.

3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:

a. Issue a final order on the extension request; or
b. Schedule a contested case hearing if a protest has been submitted, and:
   1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
   2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

- If you have any questions about statements contained in this document, please contact Machelle Bamberger at (503) 986-0802.
- If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0820.
- If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
- Address any correspondence to : Water Right Services Division
  725 Summer St NE, Suite A
  Fax: 503-986-0901 Salem, OR 97301-1266

Mailing List for Extension PFO Copies

PFO Date: November 18, 2014

Copies Mailed

Application: R-69708
Permit: R-12928

By: BKO
On: 11/18/14

Original mailed to Applicant:

Windhurst Road Water Corporation
P.O. Box 503
Bandon, OR 97411

Copies sent to:

1. WRD - App. File R-69708/ Permit R-12928

Fee paid as specified under ORS 536.050 to receive copy:

2. None

Receiving via e-mail (10 AM Tuesday of signature date)
(DONE BY EXTENSION SPECIALIST)

3. WRD - Watermaster District 19, Mitch Lewis

CASEWORKER: MAB

STATE OF OREGON

COUNTY OF COOS

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION
PO BOX 503 (541)347-3062
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: R-69708

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK

POINT OF DIVERSION LOCATION: NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH AND 2480 FEET EAST FROM W1/4 CORNER SECTION 3

STORAGE FACILITIES: 23 RESERVOIRS BEING WINDHURST: HAGA 1,2,3,4; BEE STING; SCHERER 1,2,3,4,5,6,7,8; MANICKE 1,2,3,4; RICHERT 1,2,3,4,& 5

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER PERMIT 53703 FOR CRANBERRY OPERATIONS.

VOLUME OF USE: 614 ACRE-FEET EACH YEAR, BEING 470 ACRE-FEET IN WINDHURST, 9.1 ACRE-FEET IN HAGA #1, 5.0 ACRE-FEET IN HAGA #2, 2.9 ACRE-FEET IN HAGA #3, 6.0 ACRE-FEET IN HAGA #4, 23.0 ACRE-FEET IN BEE STING, 1.4 ACRE-FEET IN SCHERER #1, 1.4 ACRE-FEET IN SCHERER #2, 5.6 ACRE-FEET IN SCHERER #3, 7.0 ACRE-FEET IN SCHERER #4, 1.5 ACRE-FEET IN SCHERER #5, 4.2 ACRE-FEET IN SCHERER #6, 7.7 ACRE-FEET IN SCHERER #7, 4.2 ACRE-FEET IN SCHERER #8, 9.1 ACRE-FEET IN MANICKE #1, 9.1 ACRE-FEET IN MANICKE #2, 9.1 ACRE-FEET IN MANICKE #3, 2.7 ACRE-FEET IN MANICKE #4, 5.6 ACRE-FEET IN RICHERT #1, 9.1 ACRE-FEET IN RICHERT #2, 9.1 ACRE-FEET IN RICHERT #3, 5.6 ACRE-FEET IN RICHERT #4, AND 5.6 ACRE-FEET IN RICHERT #5

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH MAY 31

DATE OF PRIORITY: SEPTEMBER 6, 1988, FOR 100 ACRE-FEET AND JUNE 1, 1994, FOR 514 ACRE-FEET

INSTANTANEOUS DIVERSION RATE: THE MAXIMUM DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED

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UNDER ANY PERMIT FOR APPLICATION S-69654, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW:

(1) Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and

(2) rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

(3) Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the live flow diversion authorized under any permit for application S-69654, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application S-69654, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application S-69654, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for S-69654 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

The area submerged by the Windhurst Reservoir, when full, will be 23.0 acres and the maximum depth of water will be 24.0 feet. The maximum height of the dam shall not exceed 28.0 feet.

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The area submerged by the Haga Reservoir #1, when full, will be 2.6 acres and the maximum depth of water will be 9.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #2, when full, will be 0.8 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #3, when full, will be 0.5 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #4, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Bee Sting Reservoir, when full, will be 2.0 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Scherer Reservoir #1, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #2, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #3, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #4, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #5, when full, will be 0.5 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #6, when full, will be 0.7 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

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The area submerged by the Scherer Reservoir #7, when full, will be 1.0 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #8, when full, will be 0.5 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Manicke Reservoir #1, when full, will be 1.1 acres and the maximum depth of water will be 11.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #4, when full, will be 0.3 acre and the maximum depth of water will be 10.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Richert Reservoir #1, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #3, when full, will be 0.7 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #4, when full, will be 0.7 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #5, when full will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

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THE AREAS TO BE SUBMERGED BY THE RESERVOIR ARE LOCATED AS FOLLOWS:

NE 1/4 NE 1/4	MANICKE #1
SECTION 32	
NW 1/4 NW 1/4	MANICKE #2
SW 1/4 NW 1/4	MANICKE #2,3
SE 1/4 NW 1/4	MANICKE #4
SECTION 33	
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.	
NW 1/4 SW 1/4	HAGA #1
SECTION 3	
SW 1/4 NW 1/4	SCHERER #5
NE 1/4 SW 1/4	BEE STING
NW 1/4 SW 1/4	SCHERER #7,8
SW 1/4 SW 1/4	HAGA #4
SE 1/4 SW 1/4	HAGA #2,3, BEE STING
NE 1/4 SE 1/4	WINDHURST, HAGA #4
NW 1/4 SE 1/4	WINDHURST
SECTION 4	
NE 1/4 NE 1/4	SCHERER #3
SW 1/4 NE 1/4	SCHERER #1
SE 1/4 NE 1/4	SCHERER #2,3,4
NE 1/4 SE 1/4	SCHERER #6
SECTION 5	
NE 1/4 NE 1/4	RICHERT #2
NW 1/4 NE 1/4	RICHERT #1,3
SW 1/4 NE 1/4	RICHERT #5,4
SECTION 9	
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.	

Measurement, recording and reporting conditions:

A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit. (4)

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

(5) Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

(6) At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

No fill shall be placed until preparation of the foundation has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

Any significant change in the approved design prior to or during construction shall be documented by the engineer of record in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

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

(8) The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

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The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

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.

STANDARD CONDITIONS

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2005.

Issued October 10, 2000

Dwight Stroh for
Paul R. Cleary, Director
Water Resources Department

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Extension PFO Checklist for

Other than Muni or Quasi-Municipal

Water Use Permits

(OAR 690-315-0010 through OAR 690-315-0060)

Application: R- 69708 Permit: R- 12928 Permit Amendment? No ☐ Yes ☐ T- _____ ☐ pending ☐ approved

Permit Holder's Name: Windhurst Road Watering Corp

Permit Holder's Mailing Address: P.O. Box 503, Bandon OR 97411 email _____

Phone Number: 541-347-3062

POD Location: Township SEE ATTACHED Range _____ Section _____ ¼¼ _____

Drainage Basin: 17 County: Coos Watermaster District: 19 Watermaster: Mitch Lewis

Date Permit was issued: 10/10/2000 **Priority Date:** 9/6/1988 **Date of PN:** 9/30/2014

Source: Bill Creek, a tributary of Bear Creek

Use: stored water: to be appropriated under permit 53703 for cranberry use

"Q": 614 AF each year ....

Orig "A" Date: 10/10/2001 **Orig "B" Date:** 10/1/_____ **Orig "C" Date:** 10/1/2005

Extension request rec'd: 9-26-14 (2005 - 2014) **Last Authorized "B" Date:** 10/1/_____ **Last Authorized "C" Date:** 10/1/2014

Request Number (1, 2, 3...): 2 **Proposed "B" Date:** 10/1/_____ **Proposed C Date:** 10/1/2019

Conditions of Permit:

Condition Met?	Condition Not Met?	Permit Condition	
☒	☐	2000 staff gage	☐ emergency spillway
☒	☐	2001 weir & staff gage @ POD	☒ 2002 Engineer certified
☒	☐	2001 totalizing flow meter	☒ 2001 outlet gate
☐	☐	water use reports	
☒	☐	2002 fish screen	

Factors to consider in determining "Reasonable Diligence" [OAR 690-315-0040(3)]:

Yes No

☐ ☐ Work was accomplished within the time allowed in the permit or previous extension

☐ ☐ Water right permit holder conformed with the permit or previous extension conditions

☐ ☐ Financial investments were made toward developing the beneficial water use.

- Amount Invested to date: $ 1,780.50 Estimated Remaining Cost: $ 48,000

☐ ☐ Beneficial use made of the water during the permit or previous extension time limits

- Permit holder has beneficially used _____ ☐cfs☐gpm☐af of the total permitted quantity of water on _____ acres

stored 614 AF

GW REVIEW: Y N _____

MITIGATION REVIEW: Y N

Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes ☒ No ☐

Determination of the market and the present demand for water or power to be supplied:

Identify the closest surface water or localized water basin. _____

Ground Water Permits: Is the POA located…

Surface Water Permits: Is the POD located…

Yes No

- ☐ ☒ above a state scenic waterway? Name Source: OWRD "Areas Above State Scenic Waterways" Map
- ☐ ☒ within a stream segment designated as a federal wild and scenic river? Source: www.rivers.gov/wildriverslist.html
- ☒ ☐ within a sensitive, threatened or endangered species area Source: "/gisdata/dev/projects/salmon/div33map.aml"
- ☐ ☒ within a critical or limited Ground Water Area? Name of area
- ☐ ☒ within a Withdrawn Area? Name of area
- ☐ ☒ in a waterbody listed on the DEQ Section 303(d) List of Water Quality Limited Areas? Date added to list
- ☒ ☐ within an area ranking ☒low / ☐moderate / ☐high / ☐highest for stream flow restoration needs Source: OWRD "Streamflow Restoration Needs" Maps (by region)

Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. ☒ Approval of Extension Request

No ... "Good Cause" *cannot* be found. ☐ Denial of Extension Request

Conditions to be included in Extension PFO (if applicable)? Yes ☐ No ☒

*(**NOTE:** Check the file record for documentation to add a condition(s) at the extension stage.)*

☐ 5-year Progress Report Checkpoints (Years: _____)

☐ Other: _____

Footnote regarding Claim of Beneficial Use. Choose the appropriate language below and insert as a footnote in the PFO:

☐ **COBU Requirement - Surface/Ground Water - on or prior to July 9, 1987**

"For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625."

☐ **COBU Requirement - Surface Water - post July 9, 1987**

"Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

☒ **COBU Requirement - Ground Water - post July 9, 1987**

"Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

NOTES:

Extension "PFO" Dates

Mailing / Issuance Date: _____ **Protest Deadline Date:** _____

Reviewer's Name: M. Bamberger **Date:** 9-29-14

STATE OF OREGON
WATER RESOURCES DEPARTMENT
725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # 113493 INVOICE # R-69708

RECEIVED FROM: Bandon Cranberry
BY: Water Control District

APPLICATION	S-69654
PERMIT	
TRANSFER	
TOTAL REC'D	$ 1150.00

CASH: ☐ CHECK:# ☒ 1391 OTHER: (IDENTIFY) ☐

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	$
____	OTHER: (IDENTIFY) ____	$

0243 I/S Lease ____ 0244 Muni Water Mgmt. Plan ____ 0245 Cons. Water ____

4270 WRD OPERATING ACCT

	MISCELLANEOUS	46111	
0407	COPY & TAPE FEES	R-69708 $575	$
0410	RESEARCH FEES	S-69654 $575	$
0408	MISC REVENUE: (IDENTIFY)		$
TC162	DEPOSIT LIAB. (IDENTIFY)		$
0240	EXTENSION OF TIME	2@$575.00	$ 1150.00

	WATER RIGHTS:	EXAM FEE		RECORD FEE
0201	SURFACE WATER	$	0202	$
0203	GROUND WATER	$	0204	$
0205	TRANSFER	$		

	WELL CONSTRUCTION	EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	$	0219	$
	LANDOWNER'S PERMIT		0220	$

____ OTHER (IDENTIFY) ____

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	$	CARD #	
0210	MONITORING WELLS	$	CARD #	

____ OTHER (IDENTIFY) ____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)		$
0231	HYDRO LICENSE FEE (FW/WRD)		$
____	HYDRO APPLICATION		$

____ TREASURY OTHER / RDX

FUND ____ TITLE ____
OBJ. CODE ____ VENDOR # ____
DESCRIPTION ____ $

RECEIPT: 113493 DATED: 9/22/14 BY: [signature]

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

Application # R-69708 Permit # R-12928

Public Notice Route Slip ... New Application Extension of Time
per Division 315 Rules... (Extensions received on July 1, 2001 or after)

- **WRIG...**
  Money Receipted on: 9-22-14
- **Extension Specialist...**
  ☒ Added to tracking spreadsheet

After fee is receipted and app is added to spreadsheet, route to...

- **Codi Holmes...**
  ☒ Publish on Public Notice (initial 30-day comment): Date of notice 10/7/14
  ☒ Update WRIS Database
  ☒ In the "PNotice Date" field... Enter the date the Extension Application was published on the Public Notice.
  ☒ In the "Ext Filed" field... Enter the date the Extension Application was received.

☒ Yes or ☐ No: **Return file to Extension Specialist after PN** Machelle

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

Application for Extension of Time for a Water Right Permit

(Non-Municipal / Non-Quasi-municipal Water Use)

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

I, Windhurst Road Watering Corporation
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

the holder of: Application Number R-69708 Permit Number R-12928 *[OAR 690-315-0020(3)(b)]*

A separate application must be submitted for each permit as per OAR 690-315-0020(2).

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88860 Windhurst Lane
MAILING ADDRESS

Bandon,Oregon,97411
CITY, STATE, ZIP

(541) 347-2295
PHONE

NA
E-MAIL ADDRESS

X **do hereby request that** the time to apply water to full beneficial use under the terms and conditions of the permit, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019.

Please Note. If the permit **does** specify a date when **construction** must be **completed**, you should request to extend both the time to apply water to full beneficial use **and** to complete construction. These dates are typically found on the permit above the signature of the Director.

and

☒ **do hereby request that** the time to complete construction of the water system, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019

Sign after completing the entire application, questions 1-11.

I am the permit holder, or have attached to this application written authorization from the permit holder, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension. I have completed the entire application.

Connie O Hoge
Signature

9/23/14
Date

Printed Name/Title Chairman

MAIL COMPLETED and SIGNED APPLICATION with the $575 STATUTORY FEE TO:

Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

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Submit the following items with your Application for Extension of Time:

- **The signed and completed Application for Extension of Time.**
- **$575 check to OWRD or Oregon Water Resources Department**
- **All supporting documentation and/or evidence referenced in the application.**

Reference materials needed to complete this Application:

- **Water right permit**. A copy of the water right permit can be downloaded from the Department's Website at *http://www.wrd.state.or.us* (using the link to the Water Rights Information System (WRIS). A copy of the permit may be requested from the Water Rights Division at 503-986-0801 (copy fees will apply).

- **Documentation** which demonstrates compliance with permit conditions (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification;, a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Helpful information for completing this Application:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form**. The form *Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits* is at the following link: http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml#other

- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the permit terms & conditions.

- The attached *Instructions for Completing an Application for Extension of Time for a Water Right Permit* will help you answer each question on the application. If, after reading the instructions, you need assistance, please call the Extensions Specialist at 503-986-0900.

- Permit extensions are evaluated under OAR Chapter 690, Division 315, which may be viewed at: http://www.wrd.state.or.us/OWRD/LAW/index.shtml. Please note that OWRD may require additional information, if necessary, to evaluate the application per OAR 315-0020(3)(n).

- OWRD will review applications received for completeness and will return incomplete or deficient applications per OAR 690-315-0040(1)(a) to the applicant.

Questions to Complete this Application for Extension of Time

Please see the instruction sheet to help you answers these questions.

[OAR 690-315-0020(3)(d)]

1. **Did the "actual construction" of the water system/well drilling begin within the time specified in the permit?** ☒ **Yes** ☐ **No** ☐ **N/A**, if not specified in this permit

Date "actual construction" began is: 1960

Describe details of construction: Manicke reservoir #4 constructed

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[OAR 690-315-0020(3)(e)(A)]

2-A. Please Describe how you have complied with each standard and special condition in the original permit [and, if applicable, conditions contained in any order approving a permit amendment and/or order approving a prior extension of time].

TIP: The instruction sheet explains which typical conditions must be addressed here.

Condition Number: *Hand-number each condition on a copy of your permit (and, if applicable, any permit amendment and/or prior extension). Include a copy of your hand-numbered permit.*

CHART-A

Condition Number	Date Satisfied	Describe How Permit Condition Has Been Satisfied
		SEE ATTACHMENT A

2-B. If you have NOT complied with all applicable conditions, explain the reasons why and indicate with a date certain (in the near future) when compliance will occur.

CHART-B

Condition Number	Date Will Comply	Explain Why Each Permit Condition Has NOT Been Satisfied
5	2014	INSTALL STAFF GAGES IN SCHERER AND HAGA PONDS AFTER 2014 HARVEST. A PORTION OF THE SCHERER FARM CHANGED HANDS TO BIG HORN OWL DURING THE LAST EXTENSION PERIOD. SCHERER HAS POSSESSION OF HAGA'S STAFF GAGES AND KNOWING OF APPLICATION FOR EXTENSION OF TIME WILL BE INSTALLING THEM AFTER THE 2014 HARVEST.

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[OAR 690-315-0020(3)(e)]

3-A. Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the original permitted time period.

CHART-C (below) must be completed for all Application for Extension of Time requests. *Use chronological order.*

CHART-C

DATE	LIST & DESCRIBE WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST*
	SEE ATTACHMENT B	
DATE	**LIST & DESCRIBE WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE FOR COMPLETE APPLICATION OF WATER**	**COST***
	Date the permit was signed - find date above signature on last page of permit.	
	Date the permit specified "Actual Construction Work" shall begin ("A-Date") -not all permits contain this date.	
	Date the permit specified complete application of water to the use shall be made ("C-Date") - all permits contain this date.	
DATE	**LIST & DESCRIBE WORK ACCOMPLISHED AFTER DATE FOR COMPLETE APPLICATION OF WATER UP TO NOW** Complete if this is your first request for extension of time.	**COST***
	***Total Cost for Chart-C**	

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*** If exact cost is not known, please provide your best estimate.**

IF this is your first Application for an Extension of Time, write NA in Chart D below and proceed to question 4 at the bottom of this page.

3-B) Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the most recent extension period.

If this **is not** your 1st Application for Extension of Time request, fill out CHART-D below in addition to CHART-C above. *Use chronological order.*

CHART-D

DATE	LIST AND DESCRIBE WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD	COST*
2005	"Extended From" date for complete application of water used in the 1st (or the most recent) Application for Extension of Time.	
2009-2014	MANICKE- 50% COMPLETION OF EXTENSION TO ALL PONDS	$10,000.00
2009-2014	SCHERER - COMPLETED RES. #7, PURCHASED STAFF GAGES AND WILL BE INSTALLED AFTER 2014 HARVEST SEASON	$12,000.00
2009-2014	HAGA - PURCHASED STAFF GAGES AND WILL INSTALL AFTER 2014 HARVEST SEASON	$10,000.00
2009-2014	RICHERT - WORKED ON CONSTRUCTION OF RES. #1 & #2, PURCHASED PUMPS AND PLUMBING	$14,000.00
2014	FINAL ENGINEERING CERTIFICATION HAS BEEN COMPLETED	$3,500.00
2014	"Extended To" date for complete application of water resulting from the 1st (or the most recent) Application for Extension of Time.	
DATE	**LIST AND DESCRIBE WORK ACCOMPLISHED AFTER THE LAST EXPIRED EXTENSION PERIOD UP TO NOW**	**COST***
	Total Cost of Chart-D	**$49,500.00**

*** If exact cost is not known, please provide your best estimate.**

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[OAR 690-315-0020(3)(f)]

4. **Cost of project to date:** $1,780,050.00

(The total combined cost from CHART-C and CHART-D)

[OAR 690-315-0020(3)(e)(B)]

5. Provide evidence of the maximum rate (or duty, if applicable) of water actually diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.

TIP: Report the rate used to date in the same units of measurement as specified in the permit. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

5-A) For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

Maximum measured rate used to date = _____ cfs (cubic feet per second)
or
Maximum measured rate used to date = _____ gpm (gallons per minute)
or
Acre-feet stored to date = 614 AF

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5-B) For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit including wells not currently being used.

CHART-E

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED: Well Log Number e.g. MORR 50473	IF DRILLED: Well Tag Number e.g. # 27566 or N/A	IF DRILLED: Is the actual drilled location authorized on this permit or on a permit amendment? (See 5-C below)	IF DRILLED: Maximum **measured rate** used from this well - - under this permit only (CFS or GPM)	IF DRILLED: Is this well authorized or utilized under any OTHER water rights?	IF DRILLED: If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	-
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	-
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	-
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	-
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	-
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	-
Total **measured rate** from all wells utilized under this permit								

5-C) If the drilled location of a well is not authorized on this permit, please specify its location below, or provide a map showing its location. Has or will a Permit Amendment Application been/be filed? Yes ☐ No ☐

If a Permit Amendment Application has been filed: Transfer No. T-_____

Well #_____: Actual location: _____

[OAR 690-315-0020(3)(e)(C)]

6. **Provide the total number of acres actually irrigated to date under this permit (if any).**

Surface Water Permits: I have applied water to _____ acres for irrigation to date.

Ground Water Permits: I have applied water to _____ acres for irrigation to date.

Please specify which wells are being utilized for this irrigation.

Well #_____ Acres_____ Well #_____ Acres_____

Well #_____ Acres_____ Well #_____ Acres_____

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[OAR 690-315-0020(3)(j)]

7. **Provide a summary of future plans and a schedule to complete construction of the water system, and/or apply water to full beneficial use under the permit terms and conditions.**

CHART-F

APPROXIMATE DATE RANGE (projected)	LIST & DESCRIBE WORK TO BE ACCOMPLISHED TO COMPLETE WATER DEVELOPMENT (projected)	ESTIMATED COST (projected)
2014-2019	MANICKE - EXTENSION TO 50% OF PONDS TO FINISH	$10,000.00
2014-2019	SCHERER - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, ENLARGE RES. #1 & #2	$10,000.00
2014-2019	HAGA - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, COMPLETE BEE STING RES.	$10,000.00
2014-2019	RICHERT - FINISH CONSTRUCTION OF RES. #1 & #2, INSTALL PUMPS AND PLUMBING	$18,000.00
Year: 2019	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
8.	**Estimated remaining total cost to complete the water development:** [OAR 690-315-0020(3)(g)]	**$48,000.00**

[OAR 690-315-0020(3)(h)]

9. **Describe the reasons why the water development was not constructed, and/or water was not beneficially used within permit time limits.** ***Provide supporting information for the reason(s) that best fits your circumstances (A, B, C or D).***

9-A) Is the project of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit? If yes, describe.

THIS IS A VERY LARGE AND EXPENSIVE PROJECT THAT WAS PLANNED TO BE PHASED IN OVER A LONGER PERIOD OF TIME THAN ALLOWED BY THE PERMIT.

9-B) Did the financial resources needed to develop the project preclude completion of the project within authorized time frames? If yes, describe.

FINANCIAL RESOURCES ARE LIMITED DUE TO THE UNSTABLE PRICE OF CRANBERRIES. STILL RECOVERING FROM MARKET CRASH.

9-C) Did good faith attempts to comply with other agency permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delay completion of the project? If yes, describe.

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9-D) Have other unforeseen events delayed full development of the water system and use of water within the authorized time frames? If yes, describe.

ONE OF THE MAIN PARTNERS OF WINDHURST ROAD WATERING CORPORATION PASSED AWAY IN 2014.

[OAR 690-315-0020(3)(k)]

10. Justify the time requested to complete the project and/or apply the water to full beneficial use. Your justification should combine information from your answers from Questions 2-B, 7, 8, and 9 of this Application for Extension of Time. Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

INSTALL STAFF GAGES IN SCHERER AND HAGA PONDS. MANICKE HAS 50% OF THE EXPANSION TO PONDS LEFT TO FINISH. SCHERER WILL BE INSTALLING STAFF GAGES AFTER THE 2014 HARVEST AND ENLARGING RESERVOIRS #1 & #2. A PORTION OF THE SCHERER FARM WAS SOLD TO BIG HORN OWL WHO IS A NEW OPERATOR AND NEEDS TIME TO ENLARGE SCHERER RESERVOIRS # 1 & #2. HAGA WILL INSTALL STAFF GAGES AFTER THE 2014 HARVEST AND WORK ON COMPLETING BEE STING RESERVOIR WHEN EQUIPMENT BECOMES AVAILABLE. THIS PROJECT WAS VERY LARGE AND EXPENSIVE AND WAS TO BE PHASED IN OVER A LONGER PERIOD OF TIME THAN THE PERMIT ALLOWED. FINANCIAL RESOURCES ARE LIMITED DUE TO THE UNSTABLE PRICE OF CRANBERRIES.

CWRE WILL BE MONITORING PROGRESS AND REQUESTING THAT THE PROJECT BE FINISHED WITHIN THE AMOUNT OF TIME REQUESTED.

11. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.

WE ARE UNABLE TO SEPARATE COSTS FROM THIS PERMIT AN PERMIT S-53703. PLEASE CONSIDER BOTH PERMITS TOGETHER. CWRE WILL BE MONITORING PROGRESS TO ENSURE COMPLETION OF PROJECT IN A TIMELY MANNER.

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Thank you for submitting a complete and accurate application. Remember to sign the front page. If you have questions or need assistance, please ask to speak with the Department's Extension Specialist by calling 503-986-0900 during business hours.

STATE OF OREGON

COUNTY OF COOS

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION
PO BOX 503 (541)347-3062
BANDON, OREGON 97411

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

APPLICATION FILE NUMBER: R-69708

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK

POINT OF DIVERSION LOCATION: NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH AND 2480 FEET EAST FROM W1/4 CORNER SECTION 3

STORAGE FACILITIES: 23 RESERVOIRS BEING WINDHURST: HAGA 1,2,3,4; BEE STING; SCHERER 1,2,3,4,5,6,7,8; MANICKE 1,2,3,4; RICHERT 1,2,3,4,& 5

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER PERMIT 53703 FOR CRANBERRY OPERATIONS.

VOLUME OF USE: 614 ACRE-FEET EACH YEAR, BEING 470 ACRE-FEET IN WINDHURST, 9.1 ACRE-FEET IN HAGA #1, 5.0 ACRE-FEET IN HAGA #2, 2.9 ACRE-FEET IN HAGA #3, 6.0 ACRE-FEET IN HAGA #4, 23.0 ACRE-FEET IN BEE STING, 1.4 ACRE-FEET IN SCHERER #1, 1.4 ACRE-FEET IN SCHERER #2, 5.6 ACRE-FEET IN SCHERER #3, 7.0 ACRE-FEET IN SCHERER #4, 1.5 ACRE-FEET IN SCHERER #5, 4.2 ACRE-FEET IN SCHERER #6, 7.7 ACRE-FEET IN SCHERER #7, 4.2 ACRE-FEET IN SCHERER #8, 9.1 ACRE-FEET IN MANICKE #1, 9.1 ACRE-FEET IN MANICKE #2, 9.1 ACRE-FEET IN MANICKE #3, 2.7 ACRE-FEET IN MANICKE #4, 5.6 ACRE-FEET IN RICHERT #1, 9.1 ACRE-FEET IN RICHERT #2, 9.1 ACRE-FEET IN RICHERT #3, 5.6 ACRE-FEET IN RICHERT #4, AND 5.6 ACRE-FEET IN RICHERT #5

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH MAY 31.

DATE OF PRIORITY: SEPTEMBER 6, 1988, FOR 100 ACRE-FEET AND JUNE 1, 1994, FOR 514 ACRE-FEET

INSTANTANEOUS DIVERSION RATE: THE MAXIMUM DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED

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UNDER ANY PERMIT FOR APPLICATION S-69654, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW:

1 Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range
2 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

3 Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the live flow diversion authorized under any permit for application S-69654, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application S-69654, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application S-69654, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for S-69654 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

The area submerged by the Windhurst Reservoir, when full, will be 23.0 acres and the maximum depth of water will be 24.0 feet. The maximum height of the dam shall not exceed 28.0 feet.

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The area submerged by the Haga Reservoir #1, when full, will be 2.6 acres and the maximum depth of water will be 9.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #2, when full, will be 0.8 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #3, when full, will be 0.5 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #4, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Bee Sting Reservoir, when full, will be 2.0 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Scherer Reservoir #1, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #2, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #3, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #4, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #5, when full, will be 0.5 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #6, when full, will be 0.7 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

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The area submerged by the Scherer Reservoir #7, when full, will be 1.0 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #8, when full, will be 0.5 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Manicke Reservoir #1, when full, will be 1.1 acres and the maximum depth of water will be 11.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #4, when full, will be 0.3 acre and the maximum depth of water will be 10.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Richert Reservoir #1, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #3, when full, will be 0.7 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #4, when full, will be 0.7 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #5, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

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THE AREAS TO BE SUBMERGED BY THE RESERVOIR ARE LOCATED AS FOLLOWS:

NE 1/4 NE 1/4	MANICKE #1
SECTION 32	
NW 1/4 NW 1/4	MANICKE #2
SW 1/4 NW 1/4	MANICKE #2,3
SE 1/4 NW 1/4	MANICKE #4
SECTION 33	
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.	
NW 1/4 SW 1/4	HAGA #1
SECTION 3	
SW 1/4 NW 1/4	SCHERER #5
NE 1/4 SW 1/4	BEE STING
NW 1/4 SW 1/4	SCHERER #7,8
SW 1/4 SW 1/4	HAGA #4
SE 1/4 SW 1/4	HAGA #2,3, BEE STING
NE 1/4 SE 1/4	WINDHURST, HAGA #4
NW 1/4 SE 1/4	WINDHURST
SECTION 4	
NE 1/4 NE 1/4	SCHERER #3
SW 1/4 NE 1/4	SCHERER #1
SE 1/4 NE 1/4	SCHERER #2,3,4
NE 1/4 SE 1/4	SCHERER #6
SECTION 5	
NE 1/4 NE 1/4	RICHERT #2
NW 1/4 NE 1/4	RICHERT #1,3
SW 1/4 NE 1/4	RICHERT #5,4
SECTION 9	
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.	

Measurement, recording and reporting conditions:

A. 4 Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

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

5 Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

6 At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

7 The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

No fill shall be placed until preparation of the foundation has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

Any significant change in the approved design prior to or during construction shall be documented by the engineer of record in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

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

8 The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

9 Routine maintenance of the dam and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

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The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

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.

STANDARD CONDITIONS

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

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

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

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

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

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2005.

Issued October 10, 2000

Dwight Stroh for
Paul R. Cleary, Director
Water Resources Department

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ATTACHMENT A

CHART - C

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST
1960	CONSTRUCT MAICKE RES. #4	$5,000.00
1968	CONSTRUCT HAGA RES. #4	$2,500.00
1969	CONSTRUCT RICHERT RES. #4	$8,000.00
1971	CONSTRUCT SCHERER RES. #5 & #1	$9,000.00
1972	CONSTRUCT RICHERT RES. #2	$8,000.00
1975	CONSTRUCT SCHERER RES. #8, ENLARGE EXISTING RESERVOIR	$7,000.00
1980	CONSTRUCT MANICKE RES. #1 & #2	$15,000.00
1983	CONSTRUCT SCHERER RES. #6	$8,500.00
1988	CONSTRUCT MANICKE RES. #3	$10,000.00
1989	CONSTRUCT HAGA RES. #2	$4,500.00
1990	CONSTRUCT SCHERER RES. #4 & RE-SAND BOGS	$9,000.00
1993	CONSTRUCT HAGA RES. #3	$6,000.00
1993	CONSTRUCT RICHERT RES. #3	$15,000.00
1996	PARTIAL CONSTRUCTION OF BEE STING RES. (HAGA)	$1,500.00
2000	CONSTRUCT SCHERER RES. #3	$5,500.00
1998-2000	CONSTRUCT WINDHURST RES., INSTALL PIPING, WEIR, STAFF GAGES, METER	$1,600,000.00

DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED AND PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER	COST
10/10/2000	**THE PERMIT WAS SIGNED**	
10/10/2001	**THE PERMIT SPECIFIED "ACTUAL CONSTRUCTION WORK" SHALL BEGIN ("A-DATE")**	
2001	INSTALL PUMP, ELECTRICAL & VALVES FOR WINDHURST RES.	$12,050.00
2001	PARTIAL EXCAVATION OF HAGA RES.#1	$4,000.00
10/01/2005	**DATE THE PERMIT SPECIFIED COMPLETE APPLICATION OF WATER TO THE USE SHALL BE MADE ("C-DATE")**	
	TOTAL COST FOR CHART - C	$1,730,550.00

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ATTACHMENT A

CHART - A

CONDITION NUMBER	DATE SATISFIED	DESCRIBE HOW PERMIT CONDITION HAS BEEN SATISFIED
1	2000	STAFF GAGE INSTALLED ON BEAR CR. ON BRIDGE DOWNSTREAM FROM CONFLUENCE OF BILLS CR.
2	2009	MEASUREMENTS
3	2001	WEIR 7 STAFF GAGE INSTALLED AT POD FROM BILLS CR.
4	2001	TOTALIZING FLOW METER INSTALLED AT POD FROM BILLS CREEK, REPORTS SUBMITTED BEGINNING FEB. 2002
5	2002	STAFF GAGES INSTALLED IN MOST PONDS, INCLUDING WINDHURST RESERVOIR
6	2002	APPROVED FISH SCREEN INSTALLED AT POD FROM BILLS CREEK
7	2002	EARTHEN DAM COMPLETED WITH ENGINEERING CERTIFICATION. NEW CERTIFICATION
8	2001	OUTLET CYCLED YEARLY AND IS FULLY OPERATIONAL
9		ON GOING MAINTENANCE TO REMOVE TREES, BRUSH, AND DEBRIS AND REPAIR OF ANY SLUMPS, AREAS OF EROSION, OR DEFECTIVE EQUIPMENT

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ATTACHMENT B

CHART - C

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST
1960	CONSTRUCT MAICKE RES. #4	$5,000.00
1968	CONSTRUCT HAGA RES. #4	$2,500.00
1969	CONSTRUCT RICHERT RES. #4	$8,000.00
1971	CONSTRUCT SCHERER RES. #5 & #1	$9,000.00
1972	CONSTRUCT RICHERT RES. #2	$8,000.00
1975	CONSTRUCT SCHERER RES. #8, ENLARGE EXISTING RESERVOIR	$7,000.00
1980	CONSTRUCT MANICKE RES. #1 & #2	$15,000.00
1983	CONSTRUCT SCHERER RES. #6	$8,500.00
1988	CONSTRUCT MANICKE RES. #3	$10,000.00
1989	CONSTRUCT HAGA RES. #2	$4,500.00
1990	CONSTRUCT SCHERER RES. #4 & RE-SAND BOGS	$9,000.00
1993	CONSTRUCT HAGA RES. #3	$6,000.00
1993	CONSTRUCT RICHERT RES. #3	$15,000.00
1996	PARTIAL CONSTRUCTION OF BEE STING RES. (HAGA)	$1,500.00
2000	CONSTRUCT SCHERER RES. #3	$5,500.00
1998-2000	CONSTRUCT WINDHURST RES., INSTALL PIPING, WEIR, STAFF GAGES, METER	$1,600,000.00

DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED AND PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER	COST
10/10/2000	**THE PERMIT WAS SIGNED**	
10/10/2001	**THE PERMIT SPECIFIED "ACTUAL CONSTRUCTION WORK" SHALL BEGIN ("A-DATE")**	
2001	INSTALL PUMP, ELECTRICAL & VALVES FOR WINDHURST RES.	$12,050.00
2001	PARTIAL EXCAVATION OF HAGA RES.#1	$4,000.00
10/01/2005	**DATE THE PERMIT SPECIFIED COMPLETE APPLICATION OF WATER TO THE USE SHALL BE MADE ("C-DATE")**	
	TOTAL COST FOR CHART - C	$1,730,550.00

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SEP 26 2014

SALEM, OR

Oregon
John A. Kitzhaber, MD, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

September 29, 2014

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #: R-69708 (Permit R-12928).** Your application will be reviewed in the future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

If you are interested in having your application reviewed sooner, you may pay to have your file processed immediately, using the Reimbursement Authority program, which is described at: http://www.wrd.state.or.us/OWRD/mgmt_reimbursement_authority.shtml

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Machelle Bamberger at (503) 986-0802. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's website at: www.wrd.state.or.us.

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

Draft
sent by e-mail
reviewed
9-16-14
DWP

Application for Extension of Time for a Water Right Permit

(Non-Municipal / Non-Quasi-municipal Water Use)

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

I, Windhurst Road Watering Corporation
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

the holder of: Application Number R-69708 Permit Number R-12928 *[OAR 690-315-0020(3)(b)]*

A separate application must be submitted for each permit as per OAR 690-315-0020(2).

P.O. BOX 503
MAILING ADDRESS

97411
CITY, STATE, ZIP

(541) 347-3062
PHONE

_____
E-MAIL ADDRESS

X **do hereby request that** the time to apply water to full beneficial use under the terms and conditions of the permit, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019.

Please Note. If the permit **does** specify a date when **construction** must be **completed**, you should request to extend both the time to apply water to full beneficial use **and** to complete construction. These dates are typically found on the permit above the signature of the Director.

and

☒ **do hereby request that** the time to complete construction of the water system, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019

Sign after completing the entire application, questions 1-11.

I am the permit holder, or have attached to this application written authorization from the permit holder, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension. I have completed the entire application.

_____ _____
Signature **Date**

Printed Name/Title _____

MAIL COMPLETED and SIGNED APPLICATION with the $575 STATUTORY FEE TO:

Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

Submit the following items with your Application for Extension of Time:

- **The signed and completed Application for Extension of Time.**
- **$575 check to OWRD or Oregon Water Resources Department**
- **All supporting documentation and/or evidence referenced in the application.**

Reference materials needed to complete this Application:

- **Water right permit**. A copy of the water right permit can be downloaded from the Department's Website at *http://www.wrd.state.or.us* (using the link to the Water Rights Information System (WRIS). A copy of the permit may be requested from the Water Rights Division at 503-986-0801 (copy fees will apply).

- **Documentation** which demonstrates compliance with permit conditions (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification;, a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Helpful information for completing this Application:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form**. The form *Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits* is at the following link: http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml#other

- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the permit terms & conditions.

- The attached *Instructions for Completing an Application for Extension of Time for a Water Right Permit* will help you answer each question on the application. If, after reading the instructions, you need assistance, please call the Extensions Specialist at 503-986-0900.

- Permit extensions are evaluated under OAR Chapter 690, Division 315, which may be viewed at: http://www.wrd.state.or.us/OWRD/LAW/index.shtml. Please note that OWRD may require additional information, if necessary, to evaluate the application per OAR 315-0020(3)(n).

- OWRD will review applications received for completeness and will return incomplete or deficient applications per OAR 690-315-0040(1)(a) to the applicant.

Questions to Complete this Application for Extension of Time

Please see the instruction sheet to help you answers these questions.

[OAR 690-315-0020(3)(d)]

1. **Did the "actual construction" of the water system/well drilling begin within the time specified in the permit?** ☒ **Yes** ☐ **No** ☐ **N/A**, if not specified in this permit

Date "actual construction" began is: 1960

Describe details of construction: Manicke reservoir #4 constructed

[OAR 690-315-0020(3)(e)(A)]

2-A. Please Describe how you have complied with each standard and special condition in the original permit [and, if applicable, conditions contained in any order approving a permit amendment and/or order approving a prior extension of time].

TIP: The instruction sheet explains which typical conditions must be addressed here.

Condition Number: *Hand-number each condition on a copy of your permit (and, if applicable, any permit amendment and/or prior extension). Include a copy of your hand-numbered permit.*

CHART-A

Condition Number	Date Satisfied	Describe How Permit Condition Has Been Satisfied
		SEE ATTACHMENT A

2-B. If you have NOT complied with all applicable conditions, explain the reasons why and indicate with a date certain (in the near future) when compliance will occur.

CHART-B

Condition Number	Date Will Comply	Explain Why Each Permit Condition Has NOT Been Satisfied
5	2014	INSTALL STAFF GAGES IN SCHERER AND HAGA PONDS AFTER 2014 HARVEST. A PORTION OF THE SCHERER FARM CHANGED HANDS TO BIG HORN OWL DURING THE LAST EXTENSION PERIOD. SCHERER HAS POSSESSION OF HAGA'S STAFF GAGES AND KNOWING OF APPLICATION FOR EXTENSION OF TIME WILL BE INSTALLING THEM AFTER THE 2014 HARVEST.

[OAR 690-315-0020(3)(e)]

3-A. Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the original permitted time period.

CHART-C (below) must be completed for all Application for Extension of Time requests. *Use chronological order.*

CHART-C

DATE	LIST & DESCRIBE WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST*
	SEE ATTACHMENT B	
DATE	**LIST & DESCRIBE WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE FOR COMPLETE APPLICATION OF WATER**	**COST***
	Date the permit was signed - find date above signature on last page of permit.	
	Date the permit specified "Actual Construction Work" shall begin ("A-Date") -not all permits contain this date.	
	Date the permit specified complete application of water to the use shall be made ("C-Date") - all permits contain this date.	
DATE	**LIST & DESCRIBE WORK ACCOMPLISHED AFTER DATE FOR COMPLETE APPLICATION OF WATER UP TO NOW** Complete if this is your first request for extension of time.	**COST***
	***Total Cost for Chart-C**	

*** If exact cost is not known, please provide your best estimate.**

IF this is your first Application for an Extension of Time, write NA in Chart D below and proceed to question 4 at the bottom of this page.

3-B) Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the most recent extension period.

If this **is not** your 1st Application for Extension of Time request, fill out CHART-D below in addition to CHART-C above. *Use chronological order.*

CHART-D

DATE	LIST AND DESCRIBE WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD	COST*
2005	"Extended From" date for complete application of water used in the 1st (or the most recent) Application for Extension of Time.	
2009-2014	MANICKE- 50% COMPLETION OF EXTENSION TO ALL PONDS	$10,000.00
2009-2014	SCHERER - COMPLETED RES. #7, PURCHASED STAFF GAGES AND WILL BE INSTALLED AFTER 2014 HARVEST SEASON	$12,000.00
2009-2014	HAGA - PURCHASED STAFF GAGES AND WILL INSTALL AFTER 2014 HARVEST SEASON	$10,000.00
2009-2014	RICHERT - WORKED ON CONSTRUCTION OF RES. #1 & #2, PURCHASED PUMPS AND PLUMBING	$14,000.00
2014	FINAL ENGINEERING CERTIFICATION HAS BEEN COMPLETED	$3,500.00
2014	"Extended To" date for complete application of water resulting from the 1st (or the most recent) Application for Extension of Time.	
DATE	**LIST AND DESCRIBE WORK ACCOMPLISHED AFTER THE LAST EXPIRED EXTENSION PERIOD UP TO NOW**	**COST***
	Total Cost of Chart-D	**$49,500.00**

*** If exact cost is not known, please provide your best estimate.**

[OAR 690-315-0020(3)(f)]

4. **Cost of project to date:** $1,780,050.00

(The total combined cost from CHART-C and CHART-D)

[OAR 690-315-0020(3)(e)(B)]

5. Provide evidence of the maximum rate (or duty, if applicable) of water actually diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.

TIP: Report the rate used to date in the same units of measurement as specified in the permit. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

5-A) For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

Maximum measured rate used to date = _____ cfs (cubic feet per second)
or
Maximum measured rate used to date = _____ gpm (gallons per minute)
or
Acre-feet stored to date = 614 AF

5-B) For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit including wells not currently being used.

CHART-E

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED: Well Log Number e.g. MORR 50473	IF DRILLED: Well Tag Number e.g. # 27566 or N/A	IF DRILLED: Is the actual drilled location authorized on this permit or on a permit amendment? (See 5-C below)	IF DRILLED: Maximum **measured rate** used from this well - - under this permit only (CFS or GPM)	IF DRILLED: Is this well authorized or utilized under any OTHER water rights?	IF DRILLED: If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total **measured rate** from all wells utilized under this permit								

5-C) If the drilled location of a well is not authorized on this permit, please specify its location below, or provide a map showing its location. Has or will a Permit Amendment Application been/be filed? Yes ☐ No ☐

If a Permit Amendment Application has been filed: Transfer No. T-_____

Well #_____: Actual location: _____

[OAR 690-315-0020(3)(e)(C)]

6. **Provide the total number of acres actually irrigated to date under this permit (if any).**

Surface Water Permits: I have applied water to _____ acres for irrigation to date.

Ground Water Permits: I have applied water to _____ acres for irrigation to date.

Please specify which wells are being utilized for this irrigation.

Well #_____ Acres_____ Well #_____ Acres_____

Well #_____ Acres_____ Well #_____ Acres_____

[OAR 690-315-0020(3)(j)]

7. **Provide a summary of future plans and a schedule to complete construction of the water system, and/or apply water to full beneficial use under the permit terms and conditions.**

CHART-F

APPROXIMATE DATE RANGE (projected)	LIST & DESCRIBE WORK TO BE ACCOMPLISHED TO COMPLETE WATER DEVELOPMENT (projected)	ESTIMATED COST (projected)
2014-2019	MANICKE - EXTENSION TO 50% OF PONDS TO FINISH	$10,000.00
2014-2019	SCHERER - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, ENLARGE RES. #1 & #2	$10,000.00
2014-2019	HAGA - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, COMPLETE BEE STING RES.	$10,000.00
2014-2019	RICHERT - FINISH CONSTRUCTION OF RES. #1 & #2, INSTALL PUMPS AND PLUMBING	$18,000.00
Year: 2019	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
8. Estimated remaining total cost to complete the water development: [OAR 690-315-0020(3)(g)]		**$48,000.00**

[OAR 690-315-0020(3)(h)]

9. **Describe the reasons why the water development was not constructed, and/or water was not beneficially used within permit time limits.** ***Provide supporting information for the reason(s) that best fits your circumstances (A, B, C or D).***

9-A) Is the project of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit? If yes, describe.

THIS IS A VERY LARGE AND EXPENSIVE PROJECT THAT WAS PLANNED TO BE PHASED IN OVER A LONGER PERIOD OF TIME THAN ALLOWED BY THE PERMIT.

9-B) Did the financial resources needed to develop the project preclude completion of the project within authorized time frames? If yes, describe.

FINANCIAL RESOURCES ARE LIMITED DUE TO THE UNSTABLE PRICE OF CRANBERRIES. STILL RECOVERING FROM MARKET CRASH.

9-C) Did good faith attempts to comply with other agency permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delay completion of the project? If yes, describe.

NO

9-D) Have other unforeseen events delayed full development of the water system and use of water within the authorized time frames? If yes, describe.

ONE OF THE MAIN PARTNERS OF WINDHURST ROAD WATERING CORPORATION PASSED AWAY IN 2014.

[OAR 690-315-0020(3)(k)]

10. Justify the time requested to complete the project and/or apply the water to full beneficial use. Your justification should combine information from your answers from Questions 2-B, 7, 8, and 9 of this Application for Extension of Time. Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

INSTALL STAFF GAGES IN SCHERER AND HAGA PONDS. MANICKE HAS 50% OF THE EXPANSION TO PONDS LEFT TO FINISH. SCHERER WILL BE INSTALLING STAFF GAGES AFTER THE 2014 HARVEST AND ENLARGING RESERVOIRS #1 & #2. A PORTION OF THE SCHERER FARM WAS SOLD TO BIG HORN OWL WHO IS A NEW OPERATOR AND NEEDS TIME TO ENLARGE SCHERER RESERVOIRS # 1 & #2. HAGA WILL INSTALL STAFF GAGES AFTER THE 2014 HARVEST AND WORK ON COMPLETING BEE STING RESERVOIR WHEN EQUIPMENT BECOMES AVAILABLE. THIS PROJECT WAS VERY LARGE AND EXPENSIVE AND WAS TO BE PHASED IN OVER A LONGER PERIOD OF TIME THAN THE PERMIT ALLOWED. FINANCIAL RESOURCES ARE LIMITED DUE TO THE UNSTABLE PRICE OF CRANBERRIES.

CWRE WILL BE MONITORING PROGRESS AND REQUESTING THAT THE PROJECT BE FINISHED WITHIN THE AMOUNT OF TIME REQUESTED.

11. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.

WE ARE UNABLE TO SEPARATE COSTS FROM THIS PERMIT AN PERMIT S-53703. PLEASE CONSIDER BOTH PERMITS TOGETHER. CWRE WILL BE MONITORING PROGRESS TO ENSURE COMPLETION OF PROJECT IN A TIMELY MANNER.

Thank you for submitting a complete and accurate application. Remember to sign the front page. If you have questions or need assistance, please ask to speak with the Department's Extension Specialist by calling 503-986-0900 during business hours.

ATTACHMENT A

CHART - A

CONDITION NUMBER	DATE SATISFIED	DESCRIBE HOW PERMIT CONDITION HAS BEEN SATISFIED
1	2000	STAFF GAGE INSTALLED ON BEAR CR. ON BRIDGE DOWNSTREAM FROM CONFLUENCE OF BILLS CR.
2	2009	MEASUREMENTS
3	2001	WEIR 7 STAFF GAGE INSTALLED AT POD FROM BILLS CR.
4	2001	TOTALIZING FLOW METER INSTALLED AT POD FROM BILLS CREEK, REPORTS SUBMITTED BEGINNING FEB. 2002
5	2002	STAFF GAGES INSTALLED IN MOST PONDS, INCLUDING WINDHURST RESERVOIR
6	2002	APPROVED FISH SCREEN INSTALLED AT POD FROM BILLS CREEK
7	2002	EARTHEN DAM COMPLETED WITH ENGINEERING CERTIFICATION. NEW CERTIFICATION
8	2001	OUTLET CYCLED YEARLY AND IS FULLY OPERATIONAL
9		ON GOING MAINTENANCE TO REMOVE TREES, BRUSH, AND DEBRIS AND REPAIR OF ANY SLUMPS, AREAS OF EROSION, OR DEFECTIVE EQUIPMENT

ATTACHMENT B

CHART - C

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST
1960	CONSTRUCT MAICKE RES. #4	$5,000.00
1968	CONSTRUCT HAGA RES. #4	$2,500.00
1969	CONSTRUCT RICHERT RES. #4	$8,000.00
1971	CONSTRUCT SCHERER RES. #5 & #1	$9,000.00
1972	CONSTRUCT RICHERT RES. #2	$8,000.00
1975	CONSTRUCT SCHERER RES. #8, ENLARGE EXISTING RESERVOIR	$7,000.00
1980	CONSTRUCT MANICKE RES. #1 & #2	$15,000.00
1983	CONSTRUCT SCHERER RES. #6	$8,500.00
1988	CONSTRUCT MANICKE RES. #3	$10,000.00
1989	CONSTRUCT HAGA RES. #2	$4,500.00
1990	CONSTRUCT SCHERER RES. #4 & RE-SAND BOGS	$9,000.00
1993	CONSTRUCT HAGA RES. #3	$6,000.00
1993	CONSTRUCT RICHERT RES. #3	$15,000.00
1996	PARTIAL CONSTRUCTION OF BEE STING RES. (HAGA)	$1,500.00
2000	CONSTRUCT SCHERER RES. #3	$5,500.00
1998-2000	CONSTRUCT WINDHURST RES., INSTALL PIPING, WEIR, STAFF GAGES, METER	$1,600,000.00

DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED AND PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER	COST
10/10/2000	**THE PERMIT WAS SIGNED**	
10/10/2001	**THE PERMIT SPECIFIED "ACTUAL CONSTRUCTION WORK" SHALL BEGIN ("A-DATE")**	
2001	INSTALL PUMP, ELECTRICAL & VALVES FOR WINDHURST RES.	$12,050.00
2001	PARTIAL EXCAVATION OF HAGA RES.#1	$4,000.00
10/01/2005	**DATE THE PERMIT SPECIFIED COMPLETE APPLICATION OF WATER TO THE USE SHALL BE MADE ("C-DATE")**	
	TOTAL COST FOR CHART - C	$1,730,550.00

Oregon
Kate Brown, Governor

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

Windhurst Road Watering Corp.
P.O. Box 1832
Bandon, OR 97411

Reference: Application R-69708 and S-69654; Permit R-12928 and S-53703

Dear permit holder,

HB2142 increased the fees for water right transactions effective July 1, 2021. The new fee for an Application for Extension of Time is $780. Because your Applications were received on July, 8, 2021, the fee of $670 is not sufficient to cover the statutory fee required by law. Please remit the additional $110 to the Department for each Application by August 23, 2021, so that the Department can evaluate your Application. If the additional fee is not received by August 23, 2021, the Department will not be able to process your Application, and will return it to you.

If you have any questions, feel free to contact me at Jeffrey.D.Pierceall@oregon.gov or 503-979-3213.

Sincerely,

Jeffrey Pierceall
Extension Specialist
Water Rights Division

Jordan Engineering
Structural-Civil-Geotech
460 Jordan Lane
Roseburg, OR 97471
541-673-1931

Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

July 5, 2021

Sir:
Inclosed are two applications for extension of time as received by the client. One is for the permit R-12928 and the other is for S-53703. Also there are two checks made out to the Department, one each for each application. The two checks are CK1777 and CK1778 made out to the Department for processing the two applications.

If there are any questions and/or revisions please contact the client with a copy to me for review.

Respectfully,

Clay Jordan, P.E., S.E., GeoTec, CWRE

RECEIVED
JUL 08 2021
OWRD

file: Windhurst extension R-12928 and S-53703.wpd
cc: Mr. John Roth

We are on the same page. Can we have the permit holder sign/date all of the amended pages? Or better yet, can you have the permit holder send in (or fax or email would be great) a new application, without fee that includes these pages I just reviewed and everything else the same?
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking
We're hiring! See the current list of jobs here.

From: KCJ <kcjengineer@zoho.com>
Sent: Wednesday, March 9, 2022 9:05 AM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight:
Please see the attached proposed amended extension pages R-12928. Let us know if we are on the same page per our last phone call.
Keep in mind, from our perspective, the permit holders statement in previous extensions regarding reservoirs completion were, at the time, philosophically miss-guided without professional counseling.
Thanks,
Clay

---- On Thu, 03 Feb 2022 14:57:18 -0800 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

> Good Afternoon,
> I'm going to try to call Clay now but if that doesn't work, I'm available from 3:30-5 today and tomorrow 830-930, 11-12 or 2-3.
> It should only take 30 mins or less.
> I want to propose how you could amend the current protested application to demonstrate that the development under the existing permit is either not done or might not be done after all.
> Thanks,
> Dwight
>
> *Dwight French*
> Water Right Services Division Administrator
> Oregon Water Resources Department

725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

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We're hiring! See the current list of jobs here.

From: Norm Daft <normthewaterguy@charter.net>
Sent: Wednesday, February 2, 2022 12:13 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>
Subject: Extension R-12928 Windhurst

Hi Dwight,

I received a call from several of the Windhurst Reservoir folks yesterday concerning their protest to the extension denial.

As I understand it, you have been contacted by them and have briefly discussed the matter.

I also understand there may be an opportunity to submit amendments to the application or provide additional information.

They have asked Clay and me to assist them in moving forward.

Not knowing the specifics of any discussions, we would appreciate any guidance you can provide.

It might be helpful for Clay and I to have a conference call with you to discuss how to move forward. Please let us know some times you might be available.

You can call Clay at 541-430-6926 and he can add me in or he can call you if we know what time you can be available.

Thanks for your consideration of this matter.

Norm

Norm Daft
(541) 761-1057

Jordan Engineering
Structural-Civil-Geotech
460 Jordan Lane
Roseburg, OR 97471
541-673-1931

Mr. Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Extension R-12928
Windhurst

September 13, 2022

Mr. French:
As per our last series of Emails dated May 06, 2022, Mr. Norm Daft and I organized a meeting on site at the coast with all five of the clients involved. We inspected the reservoirs in question with each and instructed the clients how to take several measurements locating horizontal and vertical depths of each reservoir in order for us to use this information to calculate the volume.

As of date the total storage is approximately 553 AF out of the permitted 614 AF.

If there are any questions please contact either me or Mr. Norm Daft.

Respectfully:

Clay Jordan, P.E., S.E., GeoTech, CWRE

CERTIFIED WATER RIGHTS EXAMINER
431 WRE
6-30-23
KENNA CLAY JORDAN
5-14-96
STATE OF OREGON

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Thursday, September 15, 2022 7:14 AM
To: FRENCH Dwight W * WRD
Subject: RE: Extension R-12928 Windhurst

Dwight,
I do not believe this is sufficient. The permit in question is for multiple (23) reservoirs. Previous extension applications, and the one submitted for this extension all asserted full development of all 23 reservoirs and the full storage volume. The information really needs to be the amount of storage per reservoir.
Additionally, I still do not think an approval of an extension is the best path forward, as no work to enlarge storage has happened since at least 2014.
We do have one other reservoir permit in this same area which we are also proposing to deny because of no additional storage being developed in nearly 10 years with a permit issued in about the same era.
We can discuss what needs done, however I think for consistency purposes, a denial of the extension is the right direction.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Tuesday, September 13, 2022 2:49 PM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: FW: Extension R-12928 Windhurst

I believe this is the information we need to move forward with the pending extension for this permit. Let me know if you have questions or concerns.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

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We're hiring! See the current list of jobs here.

NOTE: The Salem office is now open to the public. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8:00 a.m. – 5:00 p.m. every day. The Salem office of OWRD is closed for customer service drop-ins from Noon – 1pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: KCJ <kcjengineer@zoho.com>
Sent: Tuesday, September 13, 2022 12:19 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: norm daft <normthewaterguy@charter.net>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

Dwight,
See attached with total AF.
Clay

---- On Fri, 06 May 2022 08:14:40 -0700 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ---

I appreciate the update Norm.
Good luck with the survey.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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person with specific staff members. Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: Norm Daft <normthewaterguy@charter.net>
Sent: Thursday, May 5, 2022 7:51 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

Dwight,

The plan is for Clay and I to examine the reservoirs this summer and submit our findings shortly thereafter.

We hope to get it done with one field visit. There are a number of property owners to coordinate with so we don't have a specific date.

Thanks for your help on this matter.

Norm

Norm Daft
(541) 761-1057

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Friday, April 22, 2022 4:37 PM
To: KCJ <kcjengineer@zoho.com>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Hello Clay and Norm,
Please excuse my tardiness in getting back to you with a request for more information. I've been meaning to reach out to you but have been busy and .... I don't have any excuses, I just didn't get it done.
Anyway: Our extension application requirements at OAR 690-315-0020 (3eB) [below] require that you indicate to us the maximum duty of water that has been stored. This requirement doesn't fit with your situation very well because this question is a major, if not thee major, point of the extension. I apologize for not catching this when we spoke a couple months ago. My staff are sticklers for minimum application requirements for good reason – we've been sent back to the drawing board late in the process a few times when we determined, late in the process, that we didn't have a complete application.

Our previous (you and me) thinking was that once an extension was approved you would proceed with a survey to determine the actual storage capacity of all of the reservoirs on this permit then decide if there was a need to increase (or decrease perhaps) the size of any of the reservoirs to get you up to the maximum allowed under the permit. To satisfy the application requirement I propose that you provide us an estimate of how much time it will take to do the survey, then we'll put the application on hold until a survey is submitted showing the amount of water stored in each reservoir and then move forward with processing the extension application. The survey will be needed at some point

anyway. I'm suggesting, in order to have a complete application, that you perform the reservoir surveys of the reservoirs now instead of later.
I can become available to discuss if you have any further questions.
By the way: Our CWRE workshop this fall will be in Roseburg and not Grants Pass. Its either the 7th or the 14th of October.
I hope you have gotten an early start towards enjoying your weekend.
Dwight

=-=-=-=-=-=-=-=-=-=-=-=-=

OAR 690-315-0020

(3) The completed application must include the fee specified in ORS 536.050 and an application form setting forth:

(a) The name and mailing address of the water right permit holder(s);

(b) The permit number for which an extension is requested;

(c) If the water right permit holder receives delivery of the subject water right permit from a municipality, municipal corporation, or other special district, the applicant shall provide the name of the entity and evidence that a copy of the application for extension of time has been provided to the entity responsible for delivering the water;

(d) Evidence of the actions taken to begin actual construction within the time period in the permit or previous extension:

(A) "Actual construction" means physical work performed towards completion of the water system, which demonstrates both the present good faith of the water right permit holder and the water right permit holder's intention to complete the project with reasonable diligence;

(B) "Actual construction" does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, or surveying.

(e) Evidence of progress made toward completion of the water development and application to full beneficial use, which includes but is not limited to:

(A) The annual accomplishments toward perfecting the water right under the terms and conditions of the permit, including the dates on which each condition contained in the relevant permit and any previous extension(s) was satisfied or the reason the condition was not satisfied;

(B) The maximum rate, or duty if applicable, of diversion, if any, made to date; and

(C) If for irrigation, a listing by year of the number of acres irrigated each year since permit issuance, the total number of acres irrigated to date under the permit or previous extension, and a copy of the application map showing the acres irrigated.

Dwight French
Water Right Services Division Administrator

Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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From: KCJ <kcjengineer@zoho.com>
Sent: Sunday, March 20, 2022 12:44 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight,
Please see attached amended pages.
Thanks for all your help.
Let me know if more information is needed.
Clay

---- On Mon, 14 Mar 2022 10:45:03 -0700 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

> We are on the same page. Can we have the permit holder sign/date all of the amended pages? Or better yet, can you have the permit holder send in (or fax or email would be great) a new application, without fee that includes these pages I just reviewed and everything else the same?
> Dwight
>
> *Dwight French*
> Water Right Services Division Administrator
> Oregon Water Resources Department
> 725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)
>
> OREGON WATER RESOURCES DEPARTMENT
>
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We're hiring! See the current list of jobs here.

From: KCJ <kcjengineer@zoho.com>
Sent: Wednesday, March 9, 2022 9:05 AM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight:
Please see the attached proposed amended extension pages R-12928. Let us know if we are on the same page per our last phone call.
Keep in mind, from our perspective, the permit holders statement in previous extensions regarding reservoirs completion were, at the time, philosophically miss-guided without professional counseling.
Thanks,
Clay

---- On Thu, 03 Feb 2022 14:57:18 -0800 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

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> I'm going to try to call Clay now but if that doesn't work, I'm available from 3:30-5 today and tomorrow 830-930, 11-12 or 2-3.
> It should only take 30 mins or less.
> I want to propose how you could amend the current protested application to demonstrate that the development under the existing permit is either not done or might not be done after all.
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> Dwight
>
> *Dwight French*
> Water Right Services Division Administrator
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> 725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)
>
> OREGON WATER RESOURCES DEPARTMENT
>
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> We're hiring! See the current list of jobs here.
>
> ---
>
> **From:** Norm Daft <normthewaterguy@charter.net>
> **Sent:** Wednesday, February 2, 2022 12:13 PM
> **To:** FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
> **Cc:** KCJ <kcjengineer@zoho.com>
> **Subject:** Extension R-12928 Windhurst

Hi Dwight,

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As I understand it, you have been contacted by them and have briefly discussed the matter.

I also understand there may be an opportunity to submit amendments to the application or provide additional information.

They have asked Clay and me to assist them in moving forward.

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It might be helpful for Clay and I to have a conference call with you to discuss how to move forward. Please let us know some times you might be available.

You can call Clay at 541-430-6926 and he can add me in or he can call you if we know what time you can be available.

Thanks for your consideration of this matter.

Norm

Norm Daft
(541) 761-1057

PIERCEALL Jeffrey D * WRD

From: FRENCH Dwight W * WRD
Sent: Wednesday, January 4, 2023 5:09 PM
To: DOUTHIT Susan M * WRD; DILLON Justin * WRD
Cc: PIERCEALL Jeffrey D * WRD
Subject: Windhurst Road Watering extension of time (EOT) application

Hi Susan and Justin,
Jeffrey: Please send the file and permit numbers to this group.

We've received an EOT request from the applicants. We would like/request that Susan schedule a field visit with the applicant to gather some information. Jeffrey and I are developing a list of questions that we'd like Susan to look at or investigate on the site visit. Jeffrey and I would like to meet with you two to review and discuss these things and also to hear and try to answer any questions you may have.
I'm throwing out a date and time(s) to see if by chance this could work for you: Next Tuesday, Jan 10, 1:30 or 2:30. If this works let Jeffrey and I know and Jeffrey will set up a teams call.
I know Ivan has given you a warning that this ask was coming but please let me know if you have questions that should be answered before we meet.
Thank you in advance,
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

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PIERCEALL Jeffrey D * WRD

From: DOUTHIT Susan M * WRD
Sent: Thursday, January 5, 2023 2:05 PM
To: SEIM Jenna E * WRD; LEEP Austin J * WRD
Cc: PIERCEALL Jeffrey D * WRD; DILLON Justin * WRD
Subject: Fwd: Windhurst Road Watering extension of time (EOT) application

Hi all
@Jenna and @Austin-Please, if possible, plan on joining this meeting next Tuesday pm
I'm going to need a bit of help and this is might be a great opportunity to learn all about the world of extensions
@Jeffrey please include these folks n the Teams invite
~S
Get Outlook for iOS

From: DOUTHIT Susan M * WRD
Sent: Thursday, January 5, 2023 8:07:17 AM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; DILLON Justin * WRD <Justin.DILLON@water.oregon.gov>
Cc: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: RE: Windhurst Road Watering extension of time (EOT) application

Good morning Dwight!
I've got these times blocked out on my calendar. Be aware, it is quite likely I'll be taking your call/meeting while on the road so I'll have limited access to e-info.

There's quite a history with this facility. Imo, it would be helpful to have a timeline or bullet-ed summary put together, along w/the questions y'all need clarified. Also, if you can share the questions you need me to investigate *prior* to our meeting next week, I think I could be more efficient.

@Justin – I recommend we included one (or more) of our core coast crew and/or regional awm (Brian? Austin L.? Jenna?) in this discussion.
~S

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Wednesday, January 4, 2023 5:09 PM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; DILLON Justin * WRD <Justin.DILLON@water.oregon.gov>
Cc: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: Windhurst Road Watering extension of time (EOT) application

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We've received an EOT request from the applicants. We would like/request that Susan schedule a field visit with the applicant to gather some information. Jeffrey and I are developing a list of questions that we'd like Susan to look at or investigate on the site visit. Jeffrey and I would like to meet with you two to review and discuss these things and also to hear and try to answer any questions you may have.

I'm throwing out a date and time(s) to see if by chance this could work for you: Next Tuesday, Jan 10, 1:30 or 2:30. If this works let Jeffrey and I know and Jeffrey will set up a teams call.
I know Ivan has given you a warning that this ask was coming but please let me know if you have questions that should be answered before we meet.
Thank you in advance,
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)



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We're hiring! See the current list of jobs here.

NOTE: The Salem office is now open to the public. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8:00 a.m. – 5:00 p.m. every day. The Salem office of OWRD is closed for customer service drop-ins from Noon – 1pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Monday, January 9, 2023 12:59 PM
To: DOUTHIT Susan M * WRD
Subject: RE: Windhurst Road Watering extension of time (EOT) application
Attachments: 69708-Permi_EOT-Summary.docx

Susan,
See attached.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>
Sent: Monday, January 9, 2023 11:45 AM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: RE: Windhurst Road Watering extension of time (EOT) application

Did you put together any kind of summary regarding this?
I think it would be helpful and efficient for folks, allowing them to come up to speed.
~S

From: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Sent: Friday, January 6, 2023 11:02 AM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; SEIM Jenna E * WRD <Jenna.E.SEIM@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Cc: DILLON Justin * WRD <Justin.DILLON@water.oregon.gov>
Subject: RE: Windhurst Road Watering extension of time (EOT) application

All,
The file in question is R-69708. I have scanned the extension of time applications from 2014 and 2021, and placed them in the app file to help facilitate discussion.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department

503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>
Sent: Thursday, January 5, 2023 2:05 PM
To: SEIM Jenna E * WRD <Jenna.E.SEIM@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Cc: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>; DILLON Justin * WRD <Justin.DILLON@water.oregon.gov>
Subject: Fwd: Windhurst Road Watering extension of time (EOT) application

Hi all
@Jenna and @Austin-Please, if possible, plan on joining this meeting next Tuesday pm
I'm going to need a bit of help and this is might be a great opportunity to learn all about the world of extensions
@Jeffrey please include these folks n the Teams invite
~S
Get Outlook for iOS

From: DOUTHIT Susan M * WRD
Sent: Thursday, January 5, 2023 8:07:17 AM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; DILLON Justin * WRD <Justin.DILLON@water.oregon.gov>
Cc: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: RE: Windhurst Road Watering extension of time (EOT) application

Good morning Dwight!
I've got these times blocked out on my calendar. Be aware, it is quite likely I'll be taking your call/meeting while on the road so I'll have limited access to e-info.

There's quite a history with this facility. Imo, it would be helpful to have a timeline or bullet-ed summary put together, along w/the questions y'all need clarified. Also, if you can share the questions you need me to investigate *prior* to our meeting next week, I think I could be more efficient.

@Justin – I recommend we included one (or more) of our core coast crew and/or regional awm (Brian? Austin L.? Jenna?) in this discussion.
~S

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Wednesday, January 4, 2023 5:09 PM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; DILLON Justin * WRD <Justin.DILLON@water.oregon.gov>
Cc: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: Windhurst Road Watering extension of time (EOT) application

Hi Susan and Justin,
Jeffrey: Please send the file and permit numbers to this group.

We've received an EOT request from the applicants. We would like/request that Susan schedule a field visit with the applicant to gather some information. Jeffrey and I are developing a list of questions that we'd like Susan to look at or investigate on the site visit. Jeffrey and I would like to meet with you two to review and discuss these things and also to hear and try to answer any questions you may have.
I'm throwing out a date and time(s) to see if by chance this could work for you: Next Tuesday, Jan 10, 1:30 or 2:30. If this works let Jeffrey and I know and Jeffrey will set up a teams call.
I know Ivan has given you a warning that this ask was coming but please let me know if you have questions that should be answered before we meet.
Thank you in advance,
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Dwight French
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October 10, 2000, Permit R-12928 issued allowing the storage of up to 614.0 AF in 23 reservoirs, with specific limitations of storage per reservoir (see permit).

October 1, 2005, Original C-Date for Permit R-12928.

March 6, 2009, First Application for extension submitted. Application identified 523 AF stored, and 95% of project completed.

October 30, 2009, Final Order approving first extension of time to October 1, 2014.

September 22, 2014, Second application for extension submitted. Application identified all 23 reservoirs constructed, all 614 AF stored and 97% of the project was completed. An extension of time was requested to install the required staff plates and to report water annual water use.

January 9, 2015, Final Order on extension issued to October 30, 2019.

September 13, 2021, Third Application for extension submitted. Application identified that all 23 reservoirs have been constructed, the maximum rate allowed from Billy Creek was realized, all 614 AF has been stored, and all the required staff plates have been installed, and compliance with all conditions had been demonstrated prior to October 30, 2019. The extension request was to allow time to consolidate and construct additional reservoirs. Additionally, ODFW has requested "improvements" to the fish screen and intake.

November 23, 2021, Proposed Final Order to Deny the extension was issued because the Application did not demonstrate a need for an extension as the application asserts the permit is fully developed. Though the application does identify a newly constructed intake and upgraded fish screen were under construction after October 30, 2019, the original POD was asserted to be fully developed and in compliance with permit conditions prior to the most recent C-Date. It is the position of the Department that if a permit is fully developed, as authorized, an extension of time to apply for a permit amendment is not the path forward. A CBU should be submitted detailing the development of the permit as originally authorized and developed for review by the Department, and once a certificate is issued, submit a Transfer Application to make the desired changes.

On December 20, 2021, protest received. Protest states the PFO; 1) did not adequately consider ODFW's request to upgrade fish screens and the movement of the POD that resulted from the upgrade, and 2) did not adequately address the passing of parties associated with the original application. The protest does not address the volume of the reservoirs.

March 28, 2022, amended pages to the extension application submitted stating the volume of water stored to date was unknown. Additionally, the work left to be completed was updated to include determination of storage capacity and to reconstruct, and construct small reservoirs.

May 6, 2022, the Department responded to the agent indicating that volumes of the reservoirs need to be determined as per rules governing extensions (690-315-0020 (3eB)

September 13, 2022, total volume stored in reservoirs provided, but not broken into storage per reservoir. New volume reported to be stored is 553 AF.

In summary, Permit R-12928 was issued over 22 years ago. Based on the record, no additional storage capacity has been developed since at least 2014, and only an additional 30 AF has been stored since 2009.

Site Visit Questions:

Number of reservoirs constructed?

Do each of the reservoirs have the required staff plate?

Permitted Billy Creek Diversion location compared to new diversion location. Would a permit amendment be necessary for the distance moved?

Does the original Billy Creek diversion have a fish screen installed currently? Does the original diversion have the required meter/weirs installed?

Others may be developed during discussion.

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Tuesday, January 10, 2023 4:32 PM
To: DOUTHIT Susan M * WRD
Subject: Preliminary property list
Attachments: 69708-properties.xlsx

Sue,
Attached is a preliminary list of the properties associated with Permit R-12928 and S-53703. A couple of notes to this list: 1) Manicke 2, 3, and 4, (highlighted yellow) appear to be listed on the permit incorrectly. Based on the map submitted with the application, these three reservoirs should have been listed as being in the SW quarter of 33; 2) Haga 4 is listed on the permit in two locations that are not in geographic proximity (highlighted orange); and 3) Richert 5 will be on one of these two properties, but it is difficult to determine for certain. I have not started getting names together for these properties yet, but will do so on Thursday unless it is not necessary.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

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TaxLot	Township	Range	Section	POU under S-53703
28S14W33TL0080000	28S	14W	33	x
28S14W33TL0110000	28S	14W	33	
28S14W33TL0100000	28S	14W	33	x
28S14W32TL0040000	28S	14W	32	x
28S14W32TL0010000	28S	14W	32	x
29S14W05TL0030000	29S	14W	5	x
29S14W05TL0010000	29S	14W	5	x
29S14W05TL0030100	29S	14W	5	x
29S14W05TL0030000	29S	14W	5	x
29S14W05TL0340000	29S	14W	5	x
29S14W05TL0040000	29S	14W	4	x
29S14W04TL0040200	29S	14W	4	x
29S14W04TL0070000	29S	14W	4	x
29S14W04TL0080000	29S	14W	4	
29S14W04TL0020000	29S	14W	4	
29S14W04TL0050000	29S	14W	4	x
29S14W03TL0090100	29S	14W	3	x
29S14W03TL0090500	29S	14W	3	x
29S14W03TL0090000	29S	14W	3	
29S14W09TL0010000	29S	14W	9	x
29S14W09TL0080000	29S	14W	9	x
29S14W09TL0090000	29S	14W	9	x
29S14W09TL0020000	29S	14W	9	x
29S14W09TL0070000	29S	14W	9	x

Reservoir Location under R12928

Billy Creek Diversion

Makicke #2 Manicke #3 Manicke #4

Manicke #1
Manicke #2 Manicke #3 Manicke #4

Scherer #1 Scherer #2 Scherer #3 Scherer #4
Scherer #6

Bee Sting Scherer #7 Scherer #8
Haga #4?
Windhurst
Scherer #5
Haga #2 Haga #3 Haga #4 Bee Sting

Haga #1 x

Richert #1 Richert #3 Richert #4 Richert #5

Richert #2
Richert #5?

PIERCEALL Jeffrey D * WRD

From: DOUTHIT Susan M * WRD
Sent: Thursday, January 12, 2023 2:35 PM
To: LEEP Austin J * WRD
Cc: CALLAHAN Amber G * WRD; SEIM Jenna E * WRD; PIERCEALL Jeffrey D * WRD; FRENCH Dwight W * WRD; DILLON Justin * WRD
Subject: EOT work next Wednesday - Coos

Hi y'all
Just got off the phone with one of the Windhurst managers – John – 541-297-6292.
I mentioned we'd be over to take a look at the 23-ish reservoirs next Wednesday and we plan on starting first thing in the morning.
I mentioned the goal was to get an accurate picture of the res-es, whether the conditions are currently in place (staff plates, etc.), and understand what the future goals are.
He's going to contact the landowners to let them know to expect us.
~S

~Susan Douthit
Watermaster, District 15
Serving Coos and Douglas Counties
Oregon Water Resources Department
541-440-4255 (o)
541-580-4961 (c)

DISCLAIMER

Water right and well log records provided by the District 15 Watermaster's office are based on information available in our files and from Oregon Water Resources Department (OWRD) databases. While we make every effort to insure our information is complete and factual, this office cannot accept any responsibility for errors, omissions, or accuracy of the data. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this information. Official records are available from the OWRD Salem office. For additional assistance, you may contact the OWRD Salem office at 503-986-0900 or on the internet at www.wrd.state.or.us.

Reservoir ID	Reservoir Name	Owner
	Windhurst	5 J Cranberry Farms LP
H-1	HAGA #1	5 J Cranberry Farms LP
H-2	HAGA#2	5 J Cranberry Farms LP
H-3	HAGA #3	5 J Cranberry Farms LP
H-4	HAGA #4	5 J Cranberry Farms LP
	BEE STING	Kristina Campina
S-0	SCHERER #0	John Roth
S-1	SCHERER #1	John Roth
S-2	SCHERER #2	John Roth
S-3	SCHERER #3	John Roth
S-4	SCHERER # 4	John Roth
S-5	SCHERER #5	City of Bandon (John Roth)
S-6	SCHERER #6	Kristina K Campina
S-7	SCHERER #7	Kristina K Campina
S-8	SCHERER #8	Kristina K Campina
M-1	MANICKE #1	JUDITH RAE MANICKE & SCOTT R. VIERCK LLC
M-2	MANICKE #2	Kennith and Tracy Hultin
M-3	MANICKE #3	Kennith and Tracy Hultin
M-4(A)	MANICKE #4	JUDITH RAE MANICKE & SCOTT R. VIERCK LLC
R-1	RICHERT #1	Douglas and Tiffany Richert
R-2	RICHERT #2	Douglas and Tiffany Richert
R-3	RICHERT #3	Douglas and Tiffany Richert
R-4	RICHERT #4	Douglas and Tiffany Richert/ Douglas and Etal Richert
R-5	RICHERT #5	Douglas and Tiffany Richert
		Total

Map & TL ID	QQ	Latitude	Longitude	Permit Surface Area (Acres)	Permit Max Depth (ft)
29S-14W-04 TL800		43.0885	-124.3626	23	24
29S-14W-04 TL700	NESE 4	43.08706	-124.3595	2.6	9
29S-14W-04 TL500	SESW 4	43.0849	-124.3704	0.8	10
29S-14W-04 TL500	SESW 4	43.083	-124.3678	0.5	10
29S-14W-04 TL500	SWSW 4	43.0845	-124.3748	0.6	13
29S-14W-04 TL 402	NESW 4	43.0867	-124.3707	2	23
29S-14W-05 TL301	NWNE	43.09429	-124.38393		
29S-14W-05 TL300	SWNE 5	43.0933	-124.3825	0.4	10
29S-14W-05 TL300	SENE 5	43.0908	-124.3789	0.4	10
29S-14W-05 TL300	SENE 5	43.0937	-124.3801	0.9	10
29S-14W-05 TL300	SENE 5	43.0933	-124.3787	1	10
29S-14W-04 TL200	SWNW 4	43.0907	-124.3761	0.5	8
29S-14W-05 TL3400	NESE 5	43.0887	-124.3791	0.7	8
29S-14W-04 TL402	NWSW4	43.0884	-124.3743	1	11
29S-14W-04 TL402	NWSW 4	43.0882	-124.3757	0.5	12
28S-14W-32 TL400	SENE 32	43.1058	-124.3781	1.1	11.5
28S-14W-32 TL1000	SENE 32	43.1069	-124.3795	1	12
28S-14W-32 TL400	NENE 32	43.1087	-124.3785	1	12
28S-14W-33 TL 400	NENE 32	43.1105	-124.3804	0.3	10.5
29S-14W-09 TL800	NWNE 9	NA	NA	0.9	10
29S-14W-09 TL800	NENE 9	43.0792	-124.3609	1	10
29S-14W-09 TL800	SWNE9	43.0793	-124.3655	0.7	12
29S-14W-09 TL800&700	SWNE9	43.0767	-124.3643	0.7	11
29S-14W-09 TL800	SWNE9	43.0804	-124.3609	0.6	13
				42.20	270.00

CWRE Surface Area (Acres)	CWRE Max Depth (ft)	Actual Surface Area (Acres)	Actual Max Depth (ft)	Dam Height (ft)	Permit Volume (AF)	CWRE Volume (AF)
23	24	23	24	28	220.8	220.8
0	0	0.5	12	7	9.36	0
0.9	11.3	0.8	10	7	3.2	4.068
0.72	6	0.7	6	7	2	1.728
0.37	9.1	0.4	9	7	3.12	1.3468
0.6	3	1.2	1	9.9	18.4	0.72
0	0	1.04	3		0	0
0	0	0	0	4	1.6	0
0	0	0	0	4	1.6	0
0.88	5.2	0.9	5.2	4	3.6	1.8304
1.38	7.5	1.4	7.5	4	4	4.14
0.54	6.4	0.5	6.4	4	1.6	1.3824
0.79	6.8	0.7	6.8	4	2.24	2.1488
0.32	7.1	0.4	7.1	4	4.4	0.9088
0.68	5.1	0.5	5.1	4	2.4	1.3872
0.67	6.5	1.13	6.5	9.9	5.06	1.742
0.45	6.4	0.45	6.4	9.9	4.8	1.152
1.04	8.5	1.04	8.5	9.9	4.8	3.536
0.67	9	0.67	9	9.9	1.26	2.412
0	0	0	0	6	3.6	0
0.26	4.6	0.3	4.6	6	4	0.4784
0.52	5	0.4	5	6	3.36	1.04
0.6	4.2	0.9	0.42	6	3.08	1.008
0.56	9.7	0.56	9.7	6	3.12	2.1728
34.95	**145.40**	**37.49**	**153.22**	**167.50**	**311.40**	**254.00**

Actual Volume (AF)	Mapped on arc	Labeled on map	Permit	Recommendation for COBU
220.8	Yes	Yes	R-12928	Yes
2.4	incorrectly	maybe	R-12928	Yes
3.2	Yes	Yes	R-12928	Yes
1.68	Yes	Yes	R-12928	Yes
1.44	Yes	Yes	R-12928	Yes
0.48	Yes	Yes	R-12928	Yes
1.248	No	No	R-12928	Yes
0	Yes	Yes	R-12928	No
0	No	Yes	R-12928	No
1.872	Yes	Yes	R-12928	Yes
4.2	Yes	Yes	R-12928	Yes
1.28	Yes	Yes	R-12928	Yes
1.904	Yes	Yes	R-12928	Yes
1.136	Yes	Yes	R-12928	Yes
1.02	No	Yes	R-12928	Yes
2.938	No	Yes	R-12928	Yes
1.152	No	Yes	R-12928	Yes
3.536	Yes	Yes	R-12928	Yes
2.412	No	Yes	R-12928	Yes
0	Yes	Yes	R-12928	No
0.552	No	Yes	R-12928	Yes
0.8	Yes	Yes	R-12928	Yes
0.1512	Yes	Yes	R-12928	Yes
2.1728	Yes	Yes	R-12928	Yes
256.374				

Jordan Engineering
Structural-Civil-Geotech
460 Jordan Lane
Roseburg, OR 97471
541-673-1931

Mr. Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Extension R-12928
Windhurst

September 13, 2022

Mr. French:
As per our last series of Emails dated May 06, 2022, Mr. Norm Daft and I organized a meeting on site at the coast with all five of the clients involved. We inspected the reservoirs in question with each and instructed the clients how to take several measurements locating horizontal and vertical depths of each reservoir in order for us to use this information to calculate the volume.

As of date the total storage is approximately 553 AF out of the permitted 614 AF.

If there are any questions please contact either me or Mr. Norm Daft.

Respectfully:

Clay Jordan, P.E., S.E., GeoTech, CWRE

CERTIFIED WATER RIGHTS EXAMINER
431 WRE
6-30-23
KENNA CLAY JORDAN
5-14-86
STATE OF OREGON

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H-4	HAGA #4	5 J Cranberry Farms LP
	BEE STING	Kristina Campina
S-0	SCHERER #0	John Roth
S-1	SCHERER #1	John Roth
S-2	SCHERER #2	John Roth
S-3	SCHERER #3	John Roth
S-4	SCHERER # 4	John Roth
S-5	SCHERER #5	City of Bandon (John Roth)
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S-7	SCHERER #7	Kristina K Campina
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R-5	RICHERT #5	Douglas and Tiffany Richert
Total		

Permit Surface Area (Acres)	Permit Max Depth (ft)	CWRE Surface Area (Acres)	CWRE Max Depth (ft)	Actual Surface Area (Acres)	Actual Max Depth (ft)	Dam Height (ft)
23	24	23.01	20.43	23	24	28
2.6	9	0	0	0.5	12	7
0.8	10	0.9	11.3	0.8	10	7
0.5	10	0.72	6	0.7	6	7
0.6	13	0.37	9.1	0.4	9	7
2	23	0.6	3	1.2	1	9.9
		0	0	1.04	3	
0.4	10	0	0	0	0	4
0.4	10	0	0	0	0	4
0.9	10	0.88	5.2	0.9	5.2	4
1	10	1.38	7.5	1.4	7.5	4
0.5	8	0.54	6.4	0.5	6.4	4
0.7	8	0.79	6.8	0.7	6.8	4
1	11	0.32	7.1	0.4	7.1	4
0.5	12	0.68	5.1	0.5	5.1	4
1.1	11.5	0.67	6.5	1.13	6.5	9.9
1	12	0.45	6.4	0.45	6.4	9.9
1	12	1.04	8.5	1.04	8.5	9.9
0.3	10.5	0.67	9	0.67	9	9.9
0.9	10	0	0	0	0	6
1	10	0.26	4.6	0.3	4.6	6
0.7	12	0.52	5	0.4	5	6
0.7	11	0.6	4.2	0.9	0.42	6
0.6	13	0.56	9.7	0.56	9.7	6
42.20	270.00	34.96	141.83	37.49	153.22	167.50

Permit Volume (AF) Surface Area x Depth x 40%(slope)	CWRE Volume (AF) Surface Area x Depth	Actual Volume (AF) Surface Area x Depth x 40%(slope)
220.80	470.06	220.80
9.36	0.00	2.40
3.20	10.17	3.20
2.00	4.32	1.68
3.12	3.37	1.44
18.40	1.80	0.48
0.00	0.00	1.25
1.60	0.00	0.00
1.60	0.00	0.00
3.60	4.58	1.87
4.00	10.35	4.20
1.60	3.46	1.28
2.24	5.37	1.90
4.40	2.27	1.14
2.40	3.47	1.02
5.06	4.36	2.94
4.80	2.88	1.15
4.80	8.84	3.54
1.26	6.03	2.41
3.60	0.00	0.00
4.00	1.20	0.55
3.36	2.60	0.80
3.08	2.52	0.15
3.12	5.43	2.17
311.40	**553.07**	**256.374**

Mapped on arc	Labeled on map	Permit	Recommendation for COBU
Yes	Yes	R-12928	Yes
incorrectly	maybe	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	No	R-12928	Yes
Yes	Yes	R-12928	No
No	Yes	R-12928	No
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	Yes	R-12928	Yes
No	Yes	R-12928	Yes
No	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	Yes	R-12928	Yes
Yes	Yes	R-12928	No
No	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Friday, March 10, 2023 9:35 AM
To: CALLAHAN Amber G * WRD; LEEP Austin J * WRD
Subject: RE: Windhurst spreadsheet

Amber,
Thank you for the update. Column "O" still shows a calculated permitted volume. The permit specifies the permitted volume for each reservoir individually, and includes surface area and max depth, but nothing about a slope requirement or restriction. Why is there a 40% slope included in this column?

Also, for clarification, was the information provided by the CWRE to you indicating that 220ish AF was stored in Windhurst, or was it reported as the 470.6 AF and the spreadsheet applied the calculation?

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Sent: Friday, March 10, 2023 9:25 AM
To: LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>; PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: Re: Windhurst spreadsheet

Jeffery,

I was looking at the CWRE calculations and they did not include the slope of the reservoirs, so they over estimated by about 40% the amount of water that they are using. I have updated the spreadsheet to reflect and explain the equations that were used to calculate the amount the CWRE came up with and the actual amount we came up with during our site visit.

I hope this helps explain.

Thank you,

Amber Callahan
Southwest Region Assistant Watermaster
700 NW Dimmick St. , Grants Pass OR, 97526
C: (541)297-6157

O: (541)476-1288

OREGON WATER RESOURCES DEPARTMENT

Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

---

From: LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Sent: Friday, March 10, 2023 8:13 AM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>; CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Subject: Re: Windhurst spreadsheet

Jeffery,
It seems to be the surface area x the max depth x 40%, looking at the formula in the cells. I have added Amber in on this email to add any further details to it.

Thank you,

Austin Leep

Southwest Region Assistant Watermaster

10 S. Oakdale Ave, Room 309, Medford OR, 97501 | Office: 541-774-6880| Cell: 503-507-8048

OREGON WATER RESOURCES DEPARTMENT

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From: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Sent: Thursday, March 9, 2023 1:04 PM
To: LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: RE: Windhurst spreadsheet

Austin,
I am a bit confused by Column "O" titled permitted volume. I see there is an equation inserted into this to determine the permitted volume, however, it seems that this information should be pulled directly from the permit. Also, what makes

up the information contained in Column "P", CWRE volume? The numbers are significantly different than what Clay provided in September 2022 (see attached). Is there possibly an error in entry on the spreadsheet?

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Sent: Thursday, March 9, 2023 12:45 PM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: Windhurst spreadsheet

Jeffrey,
Here is the final version of the windhust project.

Let me know if you have any questions/concerns.

Austin Leep

From: CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Sent: Friday, February 24, 2023 2:23 PM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: Windhurst

Amber,

Attached is the spreadsheet for R-12928.

Thanks,

Amber Callahan
Southwest Region Assistant Watermaster
700 NW Dimmick St. , Grants Pass OR, 97526
C: (541)297-6157
O: (541)476-1288

OREGON WATER RESOURCES DEPARTMENT

Reservoir ID	Reservoir Name	Owner
	Windhurst	5 J Cranberry Farms LP
H-1	HAGA #1	5 J Cranberry Farms LP
H-2	HAGA#2	5 J Cranberry Farms LP
H-3	HAGA #3	5 J Cranberry Farms LP
H-4	HAGA #4	5 J Cranberry Farms LP
	BEE STING	Kristina Campina
S-0	SCHERER #0	John Roth
S-1	SCHERER #1	John Roth
S-2	SCHERER #2	John Roth
S-3	SCHERER #3	John Roth
S-4	SCHERER # 4	John Roth
S-5	SCHERER #5	City of Bandon (John Roth)
S-6	SCHERER #6	Kristina K Campina
S-7	SCHERER #7	Kristina K Campina
S-8	SCHERER #8	Kristina K Campina
M-1	MANICKE #1	JUDITH RAE MANICKE & SCOTT R. VIERCK LLC
M-2	MANICKE #2	Kennith and Tracy Hultin
M-3	MANICKE #3	Kennith and Tracy Hultin
M-4(A)	MANICKE #4	JUDITH RAE MANICKE & SCOTT R. VIERCK LLC
R-1	RICHERT #1	Douglas and Tiffany Richert
R-2	RICHERT #2	Douglas and Tiffany Richert
R-3	RICHERT #3	Douglas and Tiffany Richert
R-4	RICHERT #4	Douglas and Tiffany Richert/ Douglas and Etal Richert
R-5	RICHERT #5	Douglas and Tiffany Richert
Total		

Permit Surface Area (Acres)	Permit Max Depth (ft)	CWRE Surface Area (Acres)	CWRE Max Depth (ft)	Actual Surface Area (Acres)	Actual Max Depth (ft)	Dam Height (ft)
23	24	23.00	24	23	24	28
2.6	9	0	0	0.5	12	7
0.8	10	0.9	11.3	0.8	10	7
0.5	10	0.72	6	0.7	6	7
0.6	13	0.37	9.1	0.4	9	7
2	23	0.6	3	1.2	1	9.9
		0	0	1.04	3	
0.4	10	0	0	0	0	4
0.4	10	0	0	0	0	4
0.9	10	0.88	5.2	0.9	5.2	4
1	10	1.38	7.5	1.4	7.5	4
0.5	8	0.54	6.4	0.5	6.4	4
0.7	8	0.79	6.8	0.7	6.8	4
1	11	0.32	7.1	0.4	7.1	4
0.5	12	0.68	5.1	0.5	5.1	4
1.1	11.5	0.67	6.5	1.13	6.5	9.9
1	12	0.45	6.4	0.45	6.4	9.9
1	12	1.04	8.5	1.04	8.5	9.9
0.3	10.5	0.67	9	0.67	9	9.9
0.9	10	0	0	0	0	6
1	10	0.26	4.6	0.3	4.6	6
0.7	12	0.52	5	0.4	5	6
0.7	11	0.6	4.2	0.9	0.42	6
0.6	13	0.56	9.7	0.56	9.7	6
42.20	**270.00**	**34.95**	**145.40**	**37.49**	**153.22**	**167.50**

Permit Volume (AF)	CWRE Volume (AF)	Actual Volume (AF) Surface Area x Depth x 40%(slope)
470.00	470.00	220.80
9.10	0.00	2.40
5.00	10.17	3.20
2.90	4.32	1.68
6.00	3.37	1.44
23.00	1.80	0.48
0.00	0.00	1.25
1.40	0.00	0.00
1.40	0.00	0.00
5.60	4.60	1.87
7.00	10.35	4.20
1.50	3.46	1.28
4.20	5.37	1.90
7.70	2.30	1.14
4.20	3.47	1.02
9.10	4.36	2.94
9.10	2.88	1.15
9.10	8.84	3.54
2.70	6.03	2.41
5.60	0.00	0.00
9.10	1.20	0.55
9.10	2.60	0.80
5.60	2.52	0.15
5.60	5.43	2.17
614.00	**553.07**	**256.374**

Mapped on arc	Labeled on map	Permit	Recommendation for COBU
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incorrectly	maybe	R-12928	Yes
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Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	No	R-12928	Yes
Yes	Yes	R-12928	No
No	Yes	R-12928	No
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	Yes	R-12928	Yes
No	Yes	R-12928	Yes
No	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	Yes	R-12928	Yes
Yes	Yes	R-12928	No
No	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes

PIERCEALL Jeffrey D * WRD

From: FRENCH Dwight W * WRD
Sent: Wednesday, June 14, 2023 1:08 PM
To: PIERCEALL Jeffrey D * WRD
Subject: FW: Windhurst R-12928

Jeffrey,
I rec'd a call this morning from agents on the Windhurst EOT. This follow-up email has some interesting content that I wanted to have for the file. We should talk about next steps on Tuesday.
Thank you,
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

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We're hiring! See the current list of jobs here.

NOTE: The Salem office is now open to the public. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8:00 a.m. – 5:00 p.m. every day. The Salem office of OWRD is closed for customer service drop-ins from Noon – 1pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: normthewaterguy@charter.net <normthewaterguy@charter.net>
Sent: Wednesday, June 14, 2023 1:00 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>
Subject: Windhurst R-12928

Hi Dwight,

Thanks for talking with Clay and me this morning. I think we were nearly finished when your phone shut off. It might, however, be good to have another short conference call.

Please let Clay and I know when would be a good time to call you.

One of the items I did not get to is the mindset at the time of the permit application. The priority date for the first 100 AF is 1988 and 1994 for 514 AF. The priority date for the use of all stored water is 1988. 1988 was shortly after the transition from State Survey Crews to CWRE's.

I believe John Youngquist assisted in the original application and some of the amendments. At that time. I believe the mind set was it was just an application, a proposal and any differences would be taken care of at proof.

Since all storage comes from Bill Creek and is measured by meter, the location of the reservoirs seems less important especially since the Windhurst Subdistrict is a "special district".

The rate of diversion will not be increased if the extension is approved and storage increased with Mr. Roth's newest reservoir. Total storage will still be within the permit maximum. Permit R-12928 has conditions that prohibit diverting more than 50% of the flow of Bill Creek and a limit of not more than 2.75 CFS for combined permits.

Clay submitted a listing of existing reservoirs and their storage capacity based on our field inspection. This list was signed and dated by each water user. Is this sufficient to show less than the permit maximum was stored, or should the Windhurst Subdistrict submit an amended extension application page revising total storage as determined by our field inspection?

Thanks.

Norm

Norm Daft (541) 761-1057

PIERCEALL Jeffrey D * WRD

From: FRENCH Dwight W * WRD
Sent: Wednesday, June 14, 2023 1:09 PM
To: normthewaterguy@charter.net
Cc: PIERCEALL Jeffrey D * WRD
Subject: RE: Windhurst R-12928

Thanks Norm. I'm adding your email to the file and we'll consider the contents before we take a next step.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

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Sent: Wednesday, June 14, 2023 1:00 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>
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Thanks.

Norm

Norm Daft (541) 761-1057

<Austin.J.LEEP@water.oregon.gov>; FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Subject: RE: Windhurst

Yep, I saw that and we will run back thru our notes and pics for staff plates currently installed, thanks.
However, I don't think field staff can offer evidence as to whether they were installed prior to the deadline. Furthermore, I don't think we can offer evidence about whether or not those that reses that had staff plates installed previously but aren't currently installed. Does that make sense?
~S

From: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Sent: Monday, April 17, 2023 8:50 AM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>; FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Subject: RE: Windhurst

Susan,
We are waiting on confirmation of which staff plates have, or have had, the staff plates installed. Austin was going to touch base with you to see if you have notes regarding this.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>
Sent: Monday, April 17, 2023 8:46 AM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Cc: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: RE: Windhurst

Hello,
My apologies but I've lost track of where we are with this.
Am I correct in that this extension is under protest and awaiting action, likely in the form of an FO denying (based on Jeffrey comments below)?
~S

From: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Sent: Tuesday, March 21, 2023 12:56 PM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; CALLAHAN Amber G * WRD

<Amber.G.CALLAHAN@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: Windhurst

Susan,
After discussions with Dwight about this extension of time, it appears that it is unlikely that an extension will be provided to allow for additional storage to be developed after October 30, 2019. However, it is unclear as to if the reservoirs that had been developed for storage prior to October 30, 2019, have the required staff plates or measuring devices installed. Do you have a good idea of which reservoirs do have the staff plates installed, or previously installed?

Also, can you please confirm which of the reservoirs listed on the spreadsheet is the one which was just recently constructed. You indicated that it is the largest reservoir that has been developed (other than the Windhurst Reservoir), which leads me to believe that the Scherer #4 is the reservoir in question.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON
WATER
RESOURCES
DEPARTMENT

PIERCEALL Jeffrey D * WRD

From: LEEP Austin J * WRD
Sent: Thursday, April 20, 2023 7:47 AM
To: DOUTHIT Susan M * WRD
Cc: FRENCH Dwight W * WRD; PIERCEALL Jeffrey D * WRD
Subject: Re: Windhurst

Susan,
I agree. Its added to the list.

Thank you,
Austin Leep
Southwest Region Assistant Watermaster
10 S. Oakdale Ave, Room 309, Medford OR, 97501 | Office: 541-774-6880| Cell: 503-507-8048

OREGON WATER RESOURCES DEPARTMENT

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From: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>
Sent: Monday, April 17, 2023 3:12 PM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Cc: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: RE: Windhurst

Thanks Jeffrey, trying to "see" potential outcomes with this.
@Austin – we should include another convo w/these folks during the next coast loop or two especially if Dwight's final decision is one of denial.
~S

From: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Sent: Monday, April 17, 2023 3:08 PM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>
Subject: RE: Windhurst

I will need to discuss with Dwight if an extension for allowing the installation of the staff plate(s) would be warranted. If just one reservoir falls under the category of never having one installed, and it is no longer in use, I imagine we would move forward with the FO to deny the extension. The permit holder would then need to either pursue an administrative hearing, or have a CBU prepared and submitted.

Jeffrey D. Pierceall

Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>
Sent: Monday, April 17, 2023 2:56 PM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: RE: Windhurst

I can all but guarantee there's at least one reservoir in which I did not observe a staff plate nor do I have any evidence one was installed prior to the c-date but is not currently in use.
If that turns out to be the case, what's the next step?

My brain is numb! =)
~S

From: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Sent: Monday, April 17, 2023 8:59 AM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>; FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Subject: RE: Windhurst

Yes. Dwight just requested a better understanding of what staff plates were in place during the site visit, and notes if the water users stated the staff plates were previously installed.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>
Sent: Monday, April 17, 2023 8:56 AM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>; LEEP Austin J * WRD

PIERCEALL Jeffrey D * WRD

From: DOUTHIT Susan M * WRD
Sent: Monday, April 17, 2023 8:56 AM
To: PIERCEALL Jeffrey D * WRD; LEEP Austin J * WRD; FRENCH Dwight W * WRD; CALLAHAN Amber G * WRD
Subject: RE: Windhurst

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However, I don't think field staff can offer evidence as to whether they were installed prior to the deadline. Furthermore, I don't think we can offer evidence about whether or not those that reses that had staff plates installed previously but aren't currently installed. Does that make sense?
~S

From: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Sent: Monday, April 17, 2023 8:50 AM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>; FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Subject: RE: Windhurst

Susan,
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Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
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OREGON WATER RESOURCES DEPARTMENT

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Sent: Monday, April 17, 2023 8:46 AM
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Cc: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: RE: Windhurst

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~S

From: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Sent: Tuesday, March 21, 2023 12:56 PM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: Windhurst

Susan,
After discussions with Dwight about this extension of time, it appears that it is unlikely that an extension will be provided to allow for additional storage to be developed after October 30, 2019. However, it is unclear as to if the reservoirs that had been developed for storage prior to October 30, 2019, have the required staff plates or measuring devices installed. Do you have a good idea of which reservoirs do have the staff plates installed, or previously installed?

Also, can you please confirm which of the reservoirs listed on the spreadsheet is the one which was just recently constructed. You indicated that it is the largest reservoir that has been developed (other than the Windhurst Reservoir), which leads me to believe that the Scherer #4 is the reservoir in question.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON
WATER
RESOURCES
DEPARTMENT

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Tuesday, March 21, 2023 12:56 PM
To: DOUTHIT Susan M * WRD; CALLAHAN Amber G * WRD; LEEP Austin J * WRD
Subject: Windhurst

Susan,
After discussions with Dwight about this extension of time, it appears that it is unlikely that an extension will be provided to allow for additional storage to be developed after October 30, 2019. However, it is unclear as to if the reservoirs that had been developed for storage prior to October 30, 2019, have the required staff plates or measuring devices installed. Do you have a good idea of which reservoirs do have the staff plates installed, or previously installed?

Also, can you please confirm which of the reservoirs listed on the spreadsheet is the one which was just recently constructed. You indicated that it is the largest reservoir that has been developed (other than the Windhurst Reservoir), which leads me to believe that the Scherer #4 is the reservoir in question.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON
WATER
RESOURCES
DEPARTMENT

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Friday, March 10, 2023 10:19 AM
To: CALLAHAN Amber G * WRD; LEEP Austin J * WRD
Subject: RE: Windhurst spreadsheet

Thank you Amber. I am just trying to have the best information before discussing this further with Dwight.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Sent: Friday, March 10, 2023 10:11 AM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: Re: Windhurst spreadsheet

Jeffery,

The CWRE and the permit did not add in a sloped volume, I had originally thought that they would include a sloped area but it was not. I had calculated both the permit and the CWRE in the spreadsheet, but have now fixed it without a calculation and just the numbers provided that do not take into account the slope.

Based on the provided CWRE information, I used that to calculated the volume. However, I have removed that calculated section of both the CWRE and the Permit.

Attached is the non calculated volume for the CWRE or the permit.

Thanks,

Amber Callahan
Southwest Region Assistant Watermaster
700 NW Dimmick St. , Grants Pass OR, 97526
C: (541)297-6157
O: (541)476-1288

OREGON WATER RESOURCES DEPARTMENT

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From: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Sent: Friday, March 10, 2023 9:34 AM
To: CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: RE: Windhurst spreadsheet

Amber,
Thank you for the update. Column "O" still shows a calculated permitted volume. The permit specifies the permitted volume for each reservoir individually, and includes surface area and max depth, but nothing about a slope requirement or restriction. Why is there a 40% slope included in this column?

Also, for clarification, was the information provided by the CWRE to you indicating that 220ish AF was stored in Windhurst, or was it reported as the 470.6 AF and the spreadsheet applied the calculation?

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Sent: Friday, March 10, 2023 9:25 AM
To: LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>; PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: Re: Windhurst spreadsheet

Jeffery,

I was looking at the CWRE calculations and they did not include the slope of the reservoirs, so they over estimated by about 40% the amount of water that they are using. I have updated the spreadsheet to reflect and explain the equations that were used to calculate the amount the CWRE came up with and the actual amount we came up with during our site visit.

I hope this helps explain.

Thank you,

Amber Callahan
Southwest Region Assistant Watermaster
700 NW Dimmick St. , Grants Pass OR, 97526
C: (541)297-6157
O: (541)476-1288

OREGON WATER RESOURCES DEPARTMENT

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From: LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Sent: Friday, March 10, 2023 8:13 AM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>; CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Subject: Re: Windhurst spreadsheet

Jeffery,
It seems to be the surface area x the max depth x 40%, looking at the formula in the cells. I have added Amber in on this email to add any further details to it.

Thank you,

Austin Leep

Southwest Region Assistant Watermaster

10 S. Oakdale Ave, Room 309, Medford OR, 97501 | Office: 541-774-6880| Cell: 503-507-8048

OREGON WATER RESOURCES DEPARTMENT

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We're hiring! See the current list of jobs here. Search for "Water Resources Department" under Company.

From: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Sent: Thursday, March 9, 2023 1:04 PM

To: LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: RE: Windhurst spreadsheet

Austin,
I am a bit confused by Column "O" titled permitted volume. I see there is an equation inserted into this to determine the permitted volume, however, it seems that this information should be pulled directly from the permit. Also, what makes up the information contained in Column "P", CWRE volume? The numbers are significantly different than what Clay provided in September 2022 (see attached). Is there possibly an error in entry on the spreadsheet?

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Sent: Thursday, March 9, 2023 12:45 PM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: Windhurst spreadsheet

Jeffrey,
Here is the final version of the windhust project.

Let me know if you have any questions/concerns.

Austin Leep

From: CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Sent: Friday, February 24, 2023 2:23 PM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: Windhurst

Amber,

Attached is the spreadsheet for R-12928.

Thanks,

Amber Callahan
Southwest Region Assistant Watermaster
700 NW Dimmick St. , Grants Pass OR, 97526
C: (541)297-6157
O: (541)476-1288

Reservoir ID	Reservoir Name	Owner
	Windhurst	5 J Cranberry Farms LP
H-1	HAGA #1	5 J Cranberry Farms LP
H-2	HAGA#2	5 J Cranberry Farms LP
H-3	HAGA #3	5 J Cranberry Farms LP
H-4	HAGA #4	5 J Cranberry Farms LP
	BEE STING	Kristina Campina
S-0	SCHERER #0	John Roth
S-1	SCHERER #1	John Roth
S-2	SCHERER #2	John Roth
S-3	SCHERER #3	John Roth
S-4	SCHERER # 4	John Roth
S-5	SCHERER #5	City of Bandon (John Roth)
S-6	SCHERER #6	Kristina K Campina
S-7	SCHERER #7	Kristina K Campina
S-8	SCHERER #8	Kristina K Campina
M-1	MANICKE #1	JUDITH RAE MANICKE & SCOTT R. VIERCK LLC
M-2	MANICKE #2	Kennith and Tracy Hultin
M-3	MANICKE #3	Kennith and Tracy Hultin
M-4(A)	MANICKE #4	JUDITH RAE MANICKE & SCOTT R. VIERCK LLC
R-1	RICHERT #1	Douglas and Tiffany Richert
R-2	RICHERT #2	Douglas and Tiffany Richert
R-3	RICHERT #3	Douglas and Tiffany Richert
R-4	RICHERT #4	Douglas and Tiffany Richert/ Douglas and Etal Richert
R-5	RICHERT #5	Douglas and Tiffany Richert
Total		

Permit Surface Area (Acres)	Permit Max Depth (ft)	CWRE Surface Area (Acres)	CWRE Max Depth (ft)	Actual Surface Area (Acres)	Actual Max Depth (ft)	Dam Height (ft)
23	24	23.01	20.43	23	24	28
2.6	9	0	0	0.5	12	7
0.8	10	0.9	11.3	0.8	10	7
0.5	10	0.72	6	0.7	6	7
0.6	13	0.37	9.1	0.4	9	7
2	23	0.6	3	1.2	1	9.9
		0	0	1.04	3	
0.4	10	0	0	0	0	4
0.4	10	0	0	0	0	4
0.9	10	0.88	5.2	0.9	5.2	4
1	10	1.38	7.5	1.4	7.5	4
0.5	8	0.54	6.4	0.5	6.4	4
0.7	8	0.79	6.8	0.7	6.8	4
1	11	0.32	7.1	0.4	7.1	4
0.5	12	0.68	5.1	0.5	5.1	4
1.1	11.5	0.67	6.5	1.13	6.5	9.9
1	12	0.45	6.4	0.45	6.4	9.9
1	12	1.04	8.5	1.04	8.5	9.9
0.3	10.5	0.67	9	0.67	9	9.9
0.9	10	0	0	0	0	6
1	10	0.26	4.6	0.3	4.6	6
0.7	12	0.52	5	0.4	5	6
0.7	11	0.6	4.2	0.9	0.42	6
0.6	13	0.56	9.7	0.56	9.7	6
42.20	270.00	34.96	141.83	37.49	153.22	167.50

Permit Volume (AF) Surface Area x Depth x 40%(slope)	CWRE Volume (AF) Surface Area x Depth	Actual Volume (AF) Surface Area x Depth x 40%(slope)
220.80	470.06	220.80
9.36	0.00	2.40
3.20	10.17	3.20
2.00	4.32	1.68
3.12	3.37	1.44
18.40	1.80	0.48
0.00	0.00	1.25
1.60	0.00	0.00
1.60	0.00	0.00
3.60	4.58	1.87
4.00	10.35	4.20
1.60	3.46	1.28
2.24	5.37	1.90
4.40	2.27	1.14
2.40	3.47	1.02
5.06	4.36	2.94
4.80	2.88	1.15
4.80	8.84	3.54
1.26	6.03	2.41
3.60	0.00	0.00
4.00	1.20	0.55
3.36	2.60	0.80
3.08	2.52	0.15
3.12	5.43	2.17
311.40	**553.07**	**256.374**

Mapped on arc	Labeled on map	Permit	Recommendation for COBU
Yes	Yes	R-12928	Yes
incorrectly	maybe	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	No	R-12928	Yes
Yes	Yes	R-12928	No
No	Yes	R-12928	No
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	Yes	R-12928	Yes
No	Yes	R-12928	Yes
No	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	Yes	R-12928	Yes
Yes	Yes	R-12928	No
No	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes

Reservoir ID	Reservoir Name	Owner
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H-3	HAGA #3	5 J Cranberry Farms LP
H-4	HAGA #4	5 J Cranberry Farms LP
	BEE STING	Kristina Campina
S-0	SCHERER #0	John Roth
S-1	SCHERER #1	John Roth
S-2	SCHERER #2	John Roth
S-3	SCHERER #3	John Roth
S-4	SCHERER # 4	John Roth
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Total		

Permit Surface Area (Acres)	Permit Max Depth (ft)	CWRE Surface Area (Acres)	CWRE Max Depth (ft)	Actual Surface Area (Acres)	Actual Max Depth (ft)	Dam Height (ft)
23	24	23.00	24	23	24	28
2.6	9	0	0	0.5	12	7
0.8	10	0.9	11.3	0.8	10	7
0.5	10	0.72	6	0.7	6	7
0.6	13	0.37	9.1	0.4	9	7
2	23	0.6	3	1.2	1	9.9
		0	0	1.04	3	
0.4	10	0	0	0	0	4
0.4	10	0	0	0	0	4
0.9	10	0.88	5.2	0.9	5.2	4
1	10	1.38	7.5	1.4	7.5	4
0.5	8	0.54	6.4	0.5	6.4	4
0.7	8	0.79	6.8	0.7	6.8	4
1	11	0.32	7.1	0.4	7.1	4
0.5	12	0.68	5.1	0.5	5.1	4
1.1	11.5	0.67	6.5	1.13	6.5	9.9
1	12	0.45	6.4	0.45	6.4	9.9
1	12	1.04	8.5	1.04	8.5	9.9
0.3	10.5	0.67	9	0.67	9	9.9
0.9	10	0	0	0	0	6
1	10	0.26	4.6	0.3	4.6	6
0.7	12	0.52	5	0.4	5	6
0.7	11	0.6	4.2	0.9	0.42	6
0.6	13	0.56	9.7	0.56	9.7	6
42.20	270.00	34.95	145.40	37.49	153.22	167.50

Permit Volume (AF)	CWRE Volume (AF)	Actual Volume (AF) Surface Area x Depth x 40%(slope)
470.00	470.00	220.80
9.10	0.00	2.40
5.00	10.17	3.20
2.90	4.32	1.68
6.00	3.37	1.44
23.00	1.80	0.48
0.00	0.00	1.25
1.40	0.00	0.00
1.40	0.00	0.00
5.60	4.60	1.87
7.00	10.35	4.20
1.50	3.46	1.28
4.20	5.37	1.90
7.70	2.30	1.14
4.20	3.47	1.02
9.10	4.36	2.94
9.10	2.88	1.15
9.10	8.84	3.54
2.70	6.03	2.41
5.60	0.00	0.00
9.10	1.20	0.55
9.10	2.60	0.80
5.60	2.52	0.15
5.60	5.43	2.17
614.00	**553.07**	**256.374**

Mapped on arc	Labeled on map	Permit	Recommendation for COBU
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incorrectly	maybe	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	No	R-12928	Yes
Yes	Yes	R-12928	No
No	Yes	R-12928	No
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	Yes	R-12928	Yes
No	Yes	R-12928	Yes
No	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
No	Yes	R-12928	Yes
Yes	Yes	R-12928	No
No	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes
Yes	Yes	R-12928	Yes

PIERCEALL Jeffrey D * WRD

From: LEEP Austin J * WRD
Sent: Thursday, March 9, 2023 12:45 PM
To: PIERCEALL Jeffrey D * WRD
Subject: Windhurst spreadsheet
Attachments: Final version2.xlsx

Jeffrey,
Here is the final version of the windhust project.

Let me know if you have any questions/concerns.

Austin Leep

From: CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>
Sent: Friday, February 24, 2023 2:23 PM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Subject: Windhurst

Amber,

Attached is the spreadsheet for R-12928.

Thanks,

Amber Callahan
Southwest Region Assistant Watermaster
700 NW Dimmick St. , Grants Pass OR, 97526
C: (541)297-6157
O: (541)476-1288

OREGON WATER RESOURCES DEPARTMENT

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Reservoir ID	Reservoir Name	Owner
	Windhurst	5 J Cranberry Farms LP
H-1	HAGA #1	5 J Cranberry Farms LP
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H-3	HAGA #3	5 J Cranberry Farms LP
H-4	HAGA #4	5 J Cranberry Farms LP
	BEE STING	Kristina Campina
S-0	SCHERER #0	John Roth
S-1	SCHERER #1	John Roth
S-2	SCHERER #2	John Roth
S-3	SCHERER #3	John Roth
S-4	SCHERER # 4	John Roth
S-5	SCHERER #5	City of Bandon (John Roth)
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S-7	SCHERER #7	Kristina K Campina
S-8	SCHERER #8	Kristina K Campina
M-1	MANICKE #1	JUDITH RAE MANICKE & SCOTT R. VIERCK LLC
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M-3	MANICKE #3	Kennith and Tracy Hultin
M-4(A)	MANICKE #4	JUDITH RAE MANICKE & SCOTT R. VIERCK LLC
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R-2	RICHERT #2	Douglas and Tiffany Richert
R-3	RICHERT #3	Douglas and Tiffany Richert
R-4	RICHERT #4	Douglas and Tiffany Richert/ Douglas and Etal Richert
R-5	RICHERT #5	Douglas and Tiffany Richert
		Total

Map & TL ID	QQ	Latitude	Longitude	Permit Surface Area (Acres)	Permit Max Depth (ft)
29S-14W-04 TL800		43.0885	-124.3626	23	24
29S-14W-04 TL700	NESE 4	43.08706	-124.3595	2.6	9
29S-14W-04 TL500	SESW 4	43.0849	-124.3704	0.8	10
29S-14W-04 TL500	SESW 4	43.083	-124.3678	0.5	10
29S-14W-04 TL500	SWSW 4	43.0845	-124.3748	0.6	13
29S-14W-04 TL 402	NESW 4	43.0867	-124.3707	2	23
29S-14W-05 TL301	NWNE	43.09429	-124.38393		
29S-14W-05 TL300	SWNE 5	43.0933	-124.3825	0.4	10
29S-14W-05 TL300	SENE 5	43.0908	-124.3789	0.4	10
29S-14W-05 TL300	SENE 5	43.0937	-124.3801	0.9	10
29S-14W-05 TL300	SENE 5	43.0933	-124.3787	1	10
29S-14W-04 TL200	SWNW 4	43.0907	-124.3761	0.5	8
29S-14W-05 TL3400	NESE 5	43.0887	-124.3791	0.7	8
29S-14W-04 TL402	NWSW4	43.0884	-124.3743	1	11
29S-14W-04 TL402	NWSW 4	43.0882	-124.3757	0.5	12
28S-14W-32 TL400	SENE 32	43.1058	-124.3781	1.1	11.5
28S-14W-32 TL1000	SENE 32	43.1069	-124.3795	1	12
28S-14W-32 TL400	NENE 32	43.1087	-124.3785	1	12
28S-14W-33 TL 400	NENE 32	43.1105	-124.3804	0.3	10.5
29S-14W-09 TL800	NWNE 9	NA	NA	0.9	10
29S-14W-09 TL800	NENE 9	43.0792	-124.3609	1	10
29S-14W-09 TL800	SWNE9	43.0793	-124.3655	0.7	12
29S-14W-09 TL800&700	SWNE9	43.0767	-124.3643	0.7	11
29S-14W-09 TL800	SWNE9	43.0804	-124.3609	0.6	13
				42.20	270.00

CWRE Surface Area (Acres)	CWRE Max Depth (ft)	Actual Surface Area (Acres)	Actual Max Depth (ft)	Dam Height (ft)	Permit Volume (AF)	CWRE Volume (AF)
23	24	23	24	28	220.8	220.8
0	0	0.5	12	7	9.36	0
0.9	11.3	0.8	10	7	3.2	4.068
0.72	6	0.7	6	7	2	1.728
0.37	9.1	0.4	9	7	3.12	1.3468
0.6	3	1.2	1	9.9	18.4	0.72
0	0	1.04	3		0	0
0	0	0	0	4	1.6	0
0	0	0	0	4	1.6	0
0.88	5.2	0.9	5.2	4	3.6	1.8304
1.38	7.5	1.4	7.5	4	4	4.14
0.54	6.4	0.5	6.4	4	1.6	1.3824
0.79	6.8	0.7	6.8	4	2.24	2.1488
0.32	7.1	0.4	7.1	4	4.4	0.9088
0.68	5.1	0.5	5.1	4	2.4	1.3872
0.67	6.5	1.13	6.5	9.9	5.06	1.742
0.45	6.4	0.45	6.4	9.9	4.8	1.152
1.04	8.5	1.04	8.5	9.9	4.8	3.536
0.67	9	0.67	9	9.9	1.26	2.412
0	0	0	0	6	3.6	0
0.26	4.6	0.3	4.6	6	4	0.4784
0.52	5	0.4	5	6	3.36	1.04
0.6	4.2	0.9	0.42	6	3.08	1.008
0.56	9.7	0.56	9.7	6	3.12	2.1728
34.95	**145.40**	**37.49**	**153.22**	**167.50**	**311.40**	**254.00**

Actual Volume (AF)	Mapped on arc	Labeled on map	Permit	Recommendation for COBU
220.8	Yes	Yes	R-12928	Yes
2.4	incorrectly	maybe	R-12928	Yes
3.2	Yes	Yes	R-12928	Yes
1.68	Yes	Yes	R-12928	Yes
1.44	Yes	Yes	R-12928	Yes
0.48	Yes	Yes	R-12928	Yes
1.248	No	No	R-12928	Yes
0	Yes	Yes	R-12928	No
0	No	Yes	R-12928	No
1.872	Yes	Yes	R-12928	Yes
4.2	Yes	Yes	R-12928	Yes
1.28	Yes	Yes	R-12928	Yes
1.904	Yes	Yes	R-12928	Yes
1.136	Yes	Yes	R-12928	Yes
1.02	No	Yes	R-12928	Yes
2.938	No	Yes	R-12928	Yes
1.152	No	Yes	R-12928	Yes
3.536	Yes	Yes	R-12928	Yes
2.412	No	Yes	R-12928	Yes
0	Yes	Yes	R-12928	No
0.552	No	Yes	R-12928	Yes
0.8	Yes	Yes	R-12928	Yes
0.1512	Yes	Yes	R-12928	Yes
2.1728	Yes	Yes	R-12928	Yes
256.374				

PIERCEALL Jeffrey D * WRD

From: DOUTHIT Susan M * WRD
Sent: Friday, January 20, 2023 2:03 PM
To: FRENCH Dwight W * WRD
Cc: DILLON Justin * WRD; LEEP Austin J * WRD; PIERCEALL Jeffrey D * WRD
Subject: RE: EOT work next Wednesday - Coos

Hi Dwight-
Just an update to this project.
We've met onsite w/the landowners involved in this permit. Very cooperative bunch. We'll be putting a map and info together in the coming days.
Next week, I'm meeting w/Norm and Clay to discuss what they've found, compare notes, and otherwise de-brief this cranberry development project and associated water rights.
Hoping to have my recommendations to you by mid-February (immediately upon my return from some vaca).

Here's tentative answers to the questions you've posed. Still more work to be done, but here's a start.
Number of reservoirs constructed? This info is still being put together. Some res-es were constructed but didn't hold water so aren't being pursued. Other res-es were constructed/enlarged/changed to serve as replacements to the ponds that didn't hold water.
Do each of the reservoirs have the required staff plate? Currently, no.
Permitted Billy Creek Diversion location compared to new diversion location. Would a permit amendment be necessary for the distance moved? I don't think so/imo Plans suggest 30' movement in location.
Does the original Billy Creek diversion have a fish screen installed currently? Does the original diversion have the required meter/weirs installed? Unable to measure the mesh on the screen currently installed due to high water but a screen in place. Meters installed and functioning.
Others may be developed during discussion.

~S

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Thursday, January 12, 2023 4:54 PM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>
Subject: RE: EOT work next Wednesday - Coos

Sounds great Susan thank you.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

OREGON WATER RESOURCES DEPARTMENT

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From: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>
Sent: Thursday, January 12, 2023 2:35 PM
To: LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Cc: CALLAHAN Amber G * WRD <Amber.G.CALLAHAN@water.oregon.gov>; SEIM Jenna E * WRD <Jenna.E.SEIM@water.oregon.gov>; PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>; FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; DILLON Justin * WRD <Justin.DILLON@water.oregon.gov>
Subject: EOT work next Wednesday - Coos

Hi y'all
Just got off the phone with one of the Windhurst managers – John – 541-297-6292.
I mentioned we'd be over to take a look at the 23-ish reservoirs next Wednesday and we plan on starting first thing in the morning.
I mentioned the goal was to get an accurate picture of the res-es, whether the conditions are currently in place (staff plates, etc.), and understand what the future goals are.
He's going to contact the landowners to let them know to expect us.
~S

~Susan Douthit
Watermaster, District 15
Serving Coos and Douglas Counties
Oregon Water Resources Department
541-440-4255 (o)
541-580-4961 (c)

DISCLAIMER

Water right and well log records provided by the District 15 Watermaster's office are based on information available in our files and from Oregon Water Resources Department (OWRD) databases. While we make every effort to insure our information is complete and factual, this office cannot accept any responsibility for errors, omissions, or accuracy of the data. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this information. Official records are available from the OWRD Salem office. For additional assistance, you may contact the OWRD Salem office at 503-986-0900 or on the internet at www.wrd.state.or.us.

PIERCEALL Jeffrey D * WRD

From: DOUTHIT Susan M * WRD
Sent: Thursday, March 9, 2023 12:39 PM
To: FRENCH Dwight W * WRD; LEEP Austin J * WRD
Cc: PIERCEALL Jeffrey D * WRD; DILLON Justin * WRD
Subject: next steps Windhurst, iswr protests and Mr. Jordan

Hi Dwight,
It was GREAT seeing you today! Thanks for making the time for the discussion.

Regarding Windhurst – we will get our spreadsheet up to Jeffrey. We will await y'all discussion about where we go next with this project. Again, I have no concerns w/injury, enlargement and believe they are ready willing and able to use the wr for its intended purpose.
Regarding iswr protests – I'd recommend we (Ian?, me, Justin and you) meet soon (the next couple weeks) to discuss the draft plan w/the protestants.
Regarding Mr. Jordan's property – I'll chat w/Clay and get my eyes on the information about the neighbor's domestic pod, and if I land in the same place you have, I can engage w/the neighbor and help develop (with Transfer staff) a historic pod change application.

@LEEP Austin J * WRD – if you'd ship the spreadsheet up to Jeffrey I'd appreciate it.

~Susan Douthit
Watermaster, District 15
Serving Coos and Douglas Counties
Oregon Water Resources Department
541-440-4255 (o)
541-580-4961 (c)

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PIERCEALL Jeffrey D * WRD

From: DOUTHIT Susan M * WRD
Sent: Thursday, January 12, 2023 2:35 PM
To: LEEP Austin J * WRD
Cc: CALLAHAN Amber G * WRD; SEIM Jenna E * WRD; PIERCEALL Jeffrey D * WRD; FRENCH Dwight W * WRD; DILLON Justin * WRD
Subject: EOT work next Wednesday - Coos

Hi y'all
Just got off the phone with one of the Windhurst managers – John – 541-297-6292.
I mentioned we'd be over to take a look at the 23-ish reservoirs next Wednesday and we plan on starting first thing in the morning.
I mentioned the goal was to get an accurate picture of the res-es, whether the conditions are currently in place (staff plates, etc.), and understand what the future goals are.
He's going to contact the landowners to let them know to expect us.
~S

~Susan Douthit
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PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Friday, January 6, 2023 11:02 AM
To: DOUTHIT Susan M * WRD; SEIM Jenna E * WRD; LEEP Austin J * WRD
Cc: DILLON Justin * WRD
Subject: RE: Windhurst Road Watering extension of time (EOT) application

All,
The file in question is R-69708. I have scanned the extension of time applications from 2014 and 2021, and placed them in the app file to help facilitate discussion.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>
Sent: Thursday, January 5, 2023 2:05 PM
To: SEIM Jenna E * WRD <Jenna.E.SEIM@water.oregon.gov>; LEEP Austin J * WRD <Austin.J.LEEP@water.oregon.gov>
Cc: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>; DILLON Justin * WRD <Justin.DILLON@water.oregon.gov>
Subject: Fwd: Windhurst Road Watering extension of time (EOT) application

Hi all
@Jenna and @Austin-Please, if possible, plan on joining this meeting next Tuesday pm
I'm going to need a bit of help and this is might be a great opportunity to learn all about the world of extensions
@Jeffrey please include these folks n the Teams invite
~S
Get Outlook for iOS

From: DOUTHIT Susan M * WRD
Sent: Thursday, January 5, 2023 8:07:17 AM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>; DILLON Justin * WRD <Justin.DILLON@water.oregon.gov>
Cc: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: RE: Windhurst Road Watering extension of time (EOT) application

Good morning Dwight!

I've got these times blocked out on my calendar. Be aware, it is quite likely I'll be taking your call/meeting while on the road so I'll have limited access to e-info.

There's quite a history with this facility. Imo, it would be helpful to have a timeline or bullet-ed summary put together, along w/the questions y'all need clarified. Also, if you can share the questions you need me to investigate *prior* to our meeting next week, I think I could be more efficient.

@Justin – I recommend we included one (or more) of our core coast crew and/or regional awm (Brian? Austin L.? Jenna?) in this discussion.
~S

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Wednesday, January 4, 2023 5:09 PM
To: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; DILLON Justin * WRD <Justin.DILLON@water.oregon.gov>
Cc: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: Windhurst Road Watering extension of time (EOT) application

Hi Susan and Justin,
Jeffrey: Please send the file and permit numbers to this group.

We've received an EOT request from the applicants. We would like/request that Susan schedule a field visit with the applicant to gather some information. Jeffrey and I are developing a list of questions that we'd like Susan to look at or investigate on the site visit. Jeffrey and I would like to meet with you two to review and discuss these things and also to hear and try to answer any questions you may have.
I'm throwing out a date and time(s) to see if by chance this could work for you: Next Tuesday, Jan 10, 1:30 or 2:30. If this works let Jeffrey and I know and Jeffrey will set up a teams call.
I know Ivan has given you a warning that this ask was coming but please let me know if you have questions that should be answered before we meet.
Thank you in advance,
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)



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person with specific staff members. Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: Norm Daft <normthewaterguy@charter.net>
Sent: Thursday, May 5, 2022 7:51 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

Dwight,

The plan is for Clay and I to examine the reservoirs this summer and submit our findings shortly thereafter.

We hope to get it done with one field visit. There are a number of property owners to coordinate with so we don't have a specific date.

Thanks for your help on this matter.

Norm

Norm Daft
(541) 761-1057

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Friday, April 22, 2022 4:37 PM
To: KCJ <kcjengineer@zoho.com>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Hello Clay and Norm,
Please excuse my tardiness in getting back to you with a request for more information. I've been meaning to reach out to you but have been busy and .... I don't have any excuses, I just didn't get it done.
Anyway: Our extension application requirements at OAR 690-315-0020 (3eB) [below] require that you indicate to us the maximum duty of water that has been stored. This requirement doesn't fit with your situation very well because this question is a major, if not thee major, point of the extension. I apologize for not catching this when we spoke a couple months ago. My staff are sticklers for minimum application requirements for good reason – we've been sent back to the drawing board late in the process a few times when we determined, late in the process, that we didn't have a complete application.

Our previous (you and me) thinking was that once an extension was approved you would proceed with a survey to determine the actual storage capacity of all of the reservoirs on this permit then decide if there was a need to increase (or decrease perhaps) the size of any of the reservoirs to get you up to the maximum allowed under the permit. To satisfy the application requirement I propose that you provide us an estimate of how much time it will take to do the survey, then we'll put the application on hold until a survey is submitted showing the amount of water stored in each reservoir and then move forward with processing the extension application. The survey will be needed at some point

anyway. I'm suggesting, in order to have a complete application, that you perform the reservoir surveys of the reservoirs now instead of later.
I can become available to discuss if you have any further questions.
By the way: Our CWRE workshop this fall will be in Roseburg and not Grants Pass. Its either the 7th or the 14th of October.
I hope you have gotten an early start towards enjoying your weekend.
Dwight

=-=-=-=-=-=-=-=-=-=-=-=-=

OAR 690-315-0020

(3) The completed application must include the fee specified in ORS 536.050 and an application form setting forth:

(a) The name and mailing address of the water right permit holder(s);

(b) The permit number for which an extension is requested;

(c) If the water right permit holder receives delivery of the subject water right permit from a municipality, municipal corporation, or other special district, the applicant shall provide the name of the entity and evidence that a copy of the application for extension of time has been provided to the entity responsible for delivering the water;

(d) Evidence of the actions taken to begin actual construction within the time period in the permit or previous extension:

(A) "Actual construction" means physical work performed towards completion of the water system, which demonstrates both the present good faith of the water right permit holder and the water right permit holder's intention to complete the project with reasonable diligence;

(B) "Actual construction" does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, or surveying.

(e) Evidence of progress made toward completion of the water development and application to full beneficial use, which includes but is not limited to:

(A) The annual accomplishments toward perfecting the water right under the terms and conditions of the permit, including the dates on which each condition contained in the relevant permit and any previous extension(s) was satisfied or the reason the condition was not satisfied;

(B) The maximum rate, or duty if applicable, of diversion, if any, made to date; and

(C) If for irrigation, a listing by year of the number of acres irrigated each year since permit issuance, the total number of acres irrigated to date under the permit or previous extension, and a copy of the application map showing the acres irrigated.

Dwight French
Water Right Services Division Administrator

Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)



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From: KCJ <kcjengineer@zoho.com>
Sent: Sunday, March 20, 2022 12:44 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight,
Please see attached amended pages.
Thanks for all your help.
Let me know if more information is needed.
Clay

---- On Mon, 14 Mar 2022 10:45:03 -0700 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

> We are on the same page. Can we have the permit holder sign/date all of the amended pages? Or better yet, can you have the permit holder send in (or fax or email would be great) a new application, without fee that includes these pages I just reviewed and everything else the same?
> Dwight
>
> *Dwight French*
> Water Right Services Division Administrator
> Oregon Water Resources Department
> 725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)
>
> 
>
>
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From: KCJ <kcjengineer@zoho.com>
Sent: Wednesday, March 9, 2022 9:05 AM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Dwight:
Please see the attached proposed amended extension pages R-12928. Let us know if we are on the same page per our last phone call.
Keep in mind, from our perspective, the permit holders statement in previous extensions regarding reservoirs completion were, at the time, philosophically miss-guided without professional counseling.
Thanks,
Clay

---- On Thu, 03 Feb 2022 14:57:18 -0800 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ----

> Good Afternoon,
> I'm going to try to call Clay now but if that doesn't work, I'm available from 3:30-5 today and tomorrow 830-930, 11-12 or 2-3.
> It should only take 30 mins or less.
> I want to propose how you could amend the current protested application to demonstrate that the development under the existing permit is either not done or might not be done after all.
> Thanks,
> Dwight
>
> *Dwight French*
> Water Right Services Division Administrator
> Oregon Water Resources Department
> 725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)
>
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>
> ---
>
> **From:** Norm Daft <normthewaterguy@charter.net>
> **Sent:** Wednesday, February 2, 2022 12:13 PM
> **To:** FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
> **Cc:** KCJ <kcjengineer@zoho.com>
> **Subject:** Extension R-12928 Windhurst

Hi Dwight,

I received a call from several of the Windhurst Reservoir folks yesterday concerning their protest to the extension denial.

As I understand it, you have been contacted by them and have briefly discussed the matter.

I also understand there may be an opportunity to submit amendments to the application or provide additional information.

They have asked Clay and me to assist them in moving forward.

Not knowing the specifics of any discussions, we would appreciate any guidance you can provide.

It might be helpful for Clay and I to have a conference call with you to discuss how to move forward. Please let us know some times you might be available.

You can call Clay at 541-430-6926 and he can add me in or he can call you if we know what time you can be available.

Thanks for your consideration of this matter.

Norm

Norm Daft
(541) 761-1057

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Thursday, September 15, 2022 7:14 AM
To: FRENCH Dwight W * WRD
Subject: RE: Extension R-12928 Windhurst

Dwight,
I do not believe this is sufficient. The permit in question is for multiple (23) reservoirs. Previous extension applications, and the one submitted for this extension all asserted full development of all 23 reservoirs and the full storage volume. The information really needs to be the amount of storage per reservoir.
Additionally, I still do not think an approval of an extension is the best path forward, as no work to enlarge storage has happened since at least 2014.
We do have one other reservoir permit in this same area which we are also proposing to deny because of no additional storage being developed in nearly 10 years with a permit issued in about the same era.
We can discuss what needs done, however I think for consistency purposes, a denial of the extension is the right direction.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@water.oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Tuesday, September 13, 2022 2:49 PM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: FW: Extension R-12928 Windhurst

I believe this is the information we need to move forward with the pending extension for this permit. Let me know if you have questions or concerns.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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From: KCJ <kcjengineer@zoho.com>
Sent: Tuesday, September 13, 2022 12:19 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: norm daft <normthewaterguy@charter.net>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

Dwight,
See attached with total AF.
Clay

---- On Fri, 06 May 2022 08:14:40 -0700 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ---

I appreciate the update Norm.
Good luck with the survey.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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PIERCEALL Jeffrey D * WRD

From: FRENCH Dwight W * WRD
Sent: Tuesday, September 13, 2022 2:49 PM
To: PIERCEALL Jeffrey D * WRD
Subject: FW: Extension R-12928 Windhurst
Attachments: Storage in Reservoirs - Winhurst.pdf

I believe this is the information we need to move forward with the pending extension for this permit. Let me know if you have questions or concerns.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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From: KCJ <kcjengineer@zoho.com>
Sent: Tuesday, September 13, 2022 12:19 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: norm daft <normthewaterguy@charter.net>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

Dwight,
See attached with total AF.
Clay

---- On Fri, 06 May 2022 08:14:40 -0700 **FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>** wrote ---

I appreciate the update Norm.

Good luck with the survey.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
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From: Norm Daft <normthewaterguy@charter.net>
Sent: Thursday, May 5, 2022 7:51 PM
To: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Cc: KCJ <kcjengineer@zoho.com>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

Dwight,

The plan is for Clay and I to examine the reservoirs this summer and submit our findings shortly thereafter.

We hope to get it done with one field visit. There are a number of property owners to coordinate with so we don't have a specific date.

Thanks for your help on this matter.

Norm

Norm Daft
(541) 761-1057

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Friday, April 22, 2022 4:37 PM
To: KCJ <kcjengineer@zoho.com>
Cc: Norm Daft <normthewaterguy@charter.net>
Subject: RE: Extension R-12928 Windhurst

Hello Clay and Norm,

Please excuse my tardiness in getting back to you with a request for more information. I've been meaning to reach out to you but have been busy and .... I don't have any excuses, I just didn't get it done.
Anyway: Our extension application requirements at OAR 690-315-0020 (3eB) [below] require that you indicate to us the maximum duty of water that has been stored. This requirement doesn't fit with your situation very well because this question is a major, if not thee major, point of the extension. I apologize for not catching this when we spoke a couple months ago. My staff are sticklers for minimum application requirements for good reason – we've been sent back to the drawing board late in the process a few times when we determined, late in the process, that we didn't have a complete application.

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OAR 690-315-0020

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Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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Hi Dwight,

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As I understand it, you have been contacted by them and have briefly discussed the matter.

I also understand there may be an opportunity to submit amendments to the application or provide additional information.

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You can call Clay at 541-430-6926 and he can add me in or he can call you if we know what time you can be available.

Thanks for your consideration of this matter.

Norm

Norm Daft
(541) 761-1057

Jordan Engineering
Structural-Civil-Geotech
460 Jordan Lane
Roseburg, OR 97471
541-673-1931

Mr. Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Extension R-12928
Windhurst

September 13, 2022

Mr. French:
As per our last series of Emails dated May 06, 2022, Mr. Norm Daft and I organized a meeting on site at the coast with all five of the clients involved. We inspected the reservoirs in question with each and instructed the clients how to take several measurements locating horizontal and vertical depths of each reservoir in order for us to use this information to calculate the volume.

As of date the total storage is approximately 553 AF out of the permitted 614 AF.

If there are any questions please contact either me or Mr. Norm Daft.

Respectfully:

Clay Jordan, P.E., S.E., GeoTech, CWRE

CERTIFIED WATER RIGHTS EXAMINER
431 WRE
6-30-23
KENNA CLAY JORDAN
5-14-96
STATE OF OREGON

PIERCEALL Jeffrey D * WRD

From: FRENCH Dwight W * WRD
Sent: Friday, May 6, 2022 8:16 AM
To: PIERCEALL Jeffrey D * WRD
Subject: FW: Extension R-12928 Windhurst

For your E folder on this file.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-871-7292 (work cell)

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Sent: Friday, May 6, 2022 8:15 AM
To: Norm Daft <normthewaterguy@charter.net>
Cc: KCJ <kcjengineer@zoho.com>; john roth <jkcranberries@yahoo.com>
Subject: RE: Extension R-12928 Windhurst

I appreciate the update Norm.
Good luck with the survey.
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department
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OAR 690-315-0020

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Norm Daft
(541) 761-1057

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Monday, March 28, 2022 9:09 AM
To: FRENCH Dwight W * WRD; MCCARTY Patricia E * WRD; CROSS Will F * WRD; RATCLIFFE Katie S * WRD
Subject: RE: Extension R-12928 Windhurst

Dwight,
I think a discussion about this is warranted before moving to a superseding PFO. The original PFO was to deny due to not demonstrating a need for the extension, however, if additional time is needed to develop additional storage, then other considerations may need to be addressed in determining if there is good cause to allow for additional storage 20 + years after permit issuance.

One note on the updated information submitted is that they have not included the volume stored to date, which is a requirement of the application (690-315-0020(3)(e)(B)). Prior to moving forward, I think they need to provide the current storage volume of each reservoir.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: FRENCH Dwight W * WRD <Dwight.W.FRENCH@water.oregon.gov>
Sent: Monday, March 28, 2022 8:53 AM
To: MCCARTY Patricia E * WRD <Patricia.E.MCCARTY@water.oregon.gov>; CROSS Will F * WRD <Will.F.CROSS@water.oregon.gov>; RATCLIFFE Katie S * WRD <Katie.S.RATCLIFFE@water.oregon.gov>
Cc: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Subject: FW: Extension R-12928 Windhurst

Good Morning,
I received these amended extension application pages while I was on vacation. It confirms that they don't actually know how much water they have stored and need to time inspect and adjust as necessary. I believe the next step is for us to issue a superseding PFO to approve and about the same time issue a protest fee refund to the applicant.
If anyone has any questions about next steps let me know and we can discuss.
Thank you,
Dwight

Dwight French
Water Right Services Division Administrator
Oregon Water Resources Department

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Thanks for your consideration of this matter.

Norm

Norm Daft
(541) 761-1057

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Tuesday, December 28, 2021 8:32 AM
To: MCCARTY Patricia E * WRD
Subject: RE: new extension protest in your district-Windhurst reservoirs

I am not seeing any issue raised that would change the determinations made. The App that was submitted clearly indicates the permit has been fully developed as authorized, therefore an Extension is not necessary.
The change in POD after the C-Date can be handled by submitting a CBU to address the pre C-Date configuration, request a certificate, and submit a transfer. An EOT simply to do a PA is not a justification for an extension.
Additionally, the Application identified additional work needing accomplished as consolidating existing reservoirs, and constructing new reservoirs. As the permit has been fully developed, this additional work would likely result in storage beyond the permitted volume.

I do not see any significant issue raised in the protest and would not recommend a settlement.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@oregon.gov

OREGON WATER RESOURCES DEPARTMENT

From: MCCARTY Patricia E * WRD <Patricia.E.MCCARTY@water.oregon.gov>
Sent: Tuesday, December 28, 2021 8:14 AM
To: PIERCEALL Jeffrey D * WRD <Jeffrey.D.PIERCEALL@water.oregon.gov>
Cc: DOUTHIT Susan M * WRD <Susan.M.DOUTHIT@water.oregon.gov>; JOHNSTONE Jake D * WRD <Jake.D.JOHNSTONE@water.oregon.gov>
Subject: new extension protest in your district-Windhurst reservoirs

Sincerely,
Patricia McCarty (patricia.e.mccarty@water.oregon.gov)
Protest Program Coordinator
725 Summer St NE Suite A | Salem OR 97301 | Phone 503-979-9160
Work hours: 7:30-5:30, off alternate Fridays
Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

PIERCEALL Jeffrey D * WRD

From: PIERCEALL Jeffrey D * WRD
Sent: Friday, November 5, 2021 2:24 PM
To: FRENCH Dwight W * WRD
Subject: Windhurt Water extensions
Attachments: 69708-PFO-FO-EXT-2021-DENY-Fully-Developed.docx; 69654-DRAFT-PFO-FO-EXT-2021-LAST.docx

Dwight,
Attached are two PFO/FO documents for review. This is the third request for both permit.

I am recommending a denial of the EOT for R-12928, because the Application identifies that the full volume of water has been stored in the 23 authorized reservoirs, while in compliance with terms and conditions of the permit, all by October 30, 2019, being the most recent C-Date. It is worth noting on this one that there is a requirement for ODFW approval of a fish screen prior to diversion of water. The three EOT applications have all indicated that the required screen was installed, however, I have not been able to locate the documentation in the files. This said, previous extensions have been granted, and the application did arrive with a cost-share sheet from ODFW that notes the fish screen that was installed originally was almost immediately blown out as a result of high water. Though it does not identify a date this occurred, it does show that ODFW was aware of the previous fish screen. Additionally, even though the EOT Application indicates that all the water authorized has been stored, and condition compliance has been demonstrated, the purpose of the EOT application is to allow time for the permit holder to consolidate existing reservoirs and construct new reservoirs under this permit. I placed a statement in this PFO (FOF 32) that this activity would require the authorization of additional storage under a new permit.

The PFO/FO for Permit S-53703, is proposed to be approved. The EOT application identifies enough new work to find diligence and good cause to allow for an extension, however, I am recommending placing a last extension condition of a unique flavor on this permit to allow only for an additional extension to demonstrate compliance with conditions if something were to be discovered that needs to be address, but only allow for additional development through the end of this extension period, being October 1, 2024, because of the limited development that has occurred over the previous 20 years. This will allow for the water users to develop over the next few years, while placing a definitive timeline on additional use developed under the permit.

Jeffrey D. Pierceall
Extension Specialist
Oregon Water Resources Department
503-979-3213
Jeffrey.D.Pierceall@oregon.gov

OREGON
WATER
RESOURCES
DEPARTMENT

Oregon
Kate Brown, Governor

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

January 6, 2022

Bandon Cranberry Water Control District
P.O. Box 1832
Bandon, OR 97411

Re: Receipt of protest on Permit R-12928 in the name of Windhurst Road Watering Corporation.

Dear Mr. Vierck,

Enclosed is receipt #137128 for check #1803 in the amount of $480.00 in payment of the fee to file the protest to the Proposed Final Order on the application for an extension of time on Permit R-12928. The protest was received on December 20, 2021. In accordance with receipting procedures instituted for the duration of the COVID-19 pandemic, the protest was received, receipted and the check was deposited.

The department will review the protest and contact you regarding next step. Please feel free to contact me directly with any questions.

Sincerely,

Patricia McCarty

Patricia McCarty
Protest Program Coordinator
Water Right Services Division
503-979-9160
patricia.e.mccarty@water.oregon.gov

RECEIVE
DEC 20 202
OWRD

Bandon Cranberry Water Control District
PO Box 1832 | Bandon, Oregon 97411

Oregon Water Resources Department
Attn: Patricia McCarty
725 Summer Street NE, Suite A
Salem, OR 97301

Petition to Protest Proposed Final Order (PFO) to deny Extension Application – Permit R-12928
OAR690-315-0060 Proposed Final Order Hearing Rights

Petitioner for Protest:

Windhurst Subdistrict c/o Bandon Cranberry Water Control District Phone: 541-297-6292
P.O. Box 1832
Bandon, OR 97411

The Windhurst Subdistrict is the holder of permit R-12928.

The action denying the extension request proposed by the Department will adversely affect petitioner by inhibiting proposed efficiency measures and completion of a proper Claim of Beneficial Use (COBU).

The PFO does not adequately address the movement of the point of diversion by ODF&W after the current completion date (10/30/2019). ODF&W has proposed to improve fish screening by installing an infiltration box rather than a mechanical screen. This necessitates moving the current diversion 30+ feet upstream. The proposed screening improvement is scheduled for sometime in 2022, assuming funds are available.

OAR 690-014-0100(2) states: "*The CWRE shall provide the Department with sufficient information for the Director to determine the extent of beneficial use developed within the conditions or limits of the permit or transfer final order, including any specified time limits.*" A COBU performed after the current completion date of 10/30/2019, could not include the proposed diversion location as meeting time limits of the permit or prior extension. This in effect could damage the public interest in that the proposed fish screening improvement would essentially be from an unauthorized diversion. ODF&W and the Windhurst Subdistrict are under a cooperative contract whereby ODF&W is responsible for maintenance of fish screening devices. ODF&W has determined the proposed movement and improvement of the diversion would better protect the fishery resource.

The PFO also does not adequately address the passing of several of the original permit applicants. New owners believe slight alterations in various reservoirs as to exact size and location could significantly improve water use efficiency.

The extension of permit R-12928 would put it on the same timeline as the use of stored water under permit, S-54073, which has been extended. Requiring two separate COBU's at two different times would unnecessarily result in an undue hardship by significantly increasing costs for COBU's.

Approving the extension of time to match that of S-54073 would remedy the issues stated above.

Sincerely,

Scott Vierck

Scott Vierck, Board Chairman

RECEIVED
DEC 20 2021
OWRD

Mailing List for Extension PFO Copies

PFO Date: November 23, 2021 — Copies Mailed

Application: R-69708 — By: TM
Permit: R-12928 — On: 11/23/2021

Original mailed to Applicant:

Windhurst Road Watering Corporation
P.O. Box 1832
Bandon, OR 97411

Copies sent to:

1. WRD - App. File R-69708/ Permit R-12928

2. Windhurt Subdistrict c/o Bandon Cranberry Water Control District
   P.O. Box 1832
   Bandon, OR 97411

3. Northwest Farm Credit Service, FLCA
   2222 NW Kline St.
   Roseburg, OR 97471

Fee paid as specified under ORS 536.050 to receive copy:

4. None

Receiving via e-mail (10 AM Tuesday of signature date)
(DONE BY EXTENSION SPECIALIST)

5. WRD - Watermaster District 15, Susan Douthit

CASEWORKER: JDP

Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time for Permit R-12928, Water Right Application R-69708 in the name of Windhurst Road Watering Corporation	) PROPOSED) FINAL) ORDER DENIAL

Permit Information

Application:	R-69708
Permit:	R-12928
Basin:	South Coast / Watermaster District 15
Date of Priority:	September 6, 1988 for 100.0 AF; June 1, 1994 for 514.0 AF
Source of Water:	Bill Creek, a tributary of Bear Creek
Storage Facilities:	23 reservoirs being Windhurts: Haga 1, 2, 3, 4; Bee Sting; Scherer 1, 2, 3, 4, 5, 6, 7, 8; Manicke 1, 2, 3, 4; Richert 1, 2, 3, 4, & 5
Purpose of Use:	to be appropriated under Permit S-53703 for cranberry operations
Maximum Volume:	614 acre-feet (AF) each year, being 470 AF in Windhurts, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5
Maximum Rate:	2.75 cubic feet per second (cfs) maximum combined rate between Permits R-12928, and S-53703

Please read this Proposed Final Order in its entirety.

In summary, the Department proposes to:

- Deny an extension of time to apply water to full beneficial use from October 30, 2019, to October 1, 2024.

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

ACRONYM QUICK REFERENCE
Department – Oregon Water Resources Department
PFO – Proposed Final Order
AF - acre-feet
cfs – cubic feet per second
ODFW – Oregon Department of Fish and Wildlife

AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(2) provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefor; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides that in order to approve an application for an extension of time to complete construction or apply water to full beneficial use, the Department shall make the findings in OAR 690-315-0040(1) including a finding that there is "good cause" to approve the extension. OAR 690-315-0040(2)-(4) contain the factors that the Department must consider to make findings that support a "good cause" determination.

FINDINGS OF FACT

1. On October 10, 2002, Permit R-12928 was issued by the Department. The permit authorizes the storage of up to 614 AF of water each year, being 470 AF in Windhurts, 9.1 AF in Haga #1, 5.0 AF in Haga #2, 2.9 AF in Haga #3, 6.0 AF in Haga #4, 23.0 AF in Bee Sting, 1.4 AF in Sherer #1, 1.4 AF in Sherer #2, 5.6 AF in Sherer #3, 7.0 AF in Sherer #4, 1.5 AF in Sherer #5, 4.2 AF in Sherer #6, 7.7 AF in Sherer #7, 4.2 AF in Sherer #8, 9.1 in Manicke #1, 9.1 AF in Manicke #2, 9.1 AF in Manicke #3, 2.7 AF in Manicke #4, 5.6 AF in Richert #1, 9.1 AF in Richert #2, 9.1 AF in Richert #3, 5.6 AF in Richert #4, and 5.6 AF in Richert #5 from Bill Creek, a tributary of Bear Creek, to be appropriated under Permit S-53703 for cranberry operations. The permit specified complete application of water was to be made on or before October 1, 2005.

2. On February 1, 2016, an assignment from Windhurts Road Watering Corporation, to Windhurst Subdistrict c/o Bandon Cranberry Water Control District, Northwest Farm Credit Services, FCLA, and Windhusrt Road Watering Corporation was recorded in the records of the Water Resources Department for R-12928.

3. Two prior permit extensions have been granted for Permit R-12928. The most recent extension resulted in the completion dates for full application of water being extended to October 30, 2019.

4. On September 13, 2021, the permit holder, Scott R. Vierck, chairman of Windhurst Road Watering Corporation, submitted an "Application for Extension of Time" to the Department, requesting the time to apply water to full beneficial use under the terms of Permit R-12928 be extended from October 30, 2019, to October 1, 2024.

5. Notification of the Application for Extension of Time for Permit R-12928 was published in the Department's Public Notice dated October 12, 2021. No public comments were received regarding the extension application.

Review Criteria [OAR 690-315-0040]

In order to approve an application for an extension of time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction, pursuant to ORS 537.248, the Department must make the findings in OAR 690-315-0040(1)(a) – (d).

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

6. On September 13, 2021, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

7. Construction of the water system authorized under Permit R-12928, began prior to permit issuance.

Based on FOF 7, the Department has determined the permit holder has satisfied the condition requiring beginning of construction of the water works.

Good Cause [OAR 690-315-0040(1)(d)]

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

In order to make a finding of "good cause" to approve the extension, the Department shall consider whether the applicant has demonstrated "reasonable diligence" in previous performance under the permit. OAR 690-315-0040(2)(a). In determining "reasonable diligence", the Department shall consider, but is not limited to, the following factors: a) The amount of construction completed within the time allowed in the permit or previous extension; b) The amount of beneficial use made of the water during the permit or previous extension time limits; c) Water right holder conformance with the permit or previous extension conditions; and d) Financial investments made toward developing the beneficial use of water.

Amount of Construction [OAR 690-315-0040(3)(a)]
The amount of construction completed within the time allowed in the permit and previous extensions.[1]

8. Construction of the water system began prior to the permit issuance.

9. Work was completed during the original development time frame under Permit R-12928 as identified in the Applications for Extension of Time submitted March 6, 2009, and September 26, 2014.

10. During the most recent extension period, being from October 1, 2014, to October 30, 2019, the required staff gages and meters were installed.

The Application provides evidence that progress of physical work, enough to qualify as the minimum necessary, has been made towards completion of the water system for the Department to find good cause and reasonable diligence towards complete application of water to a beneficial use.

Compliance with Conditions [OAR 690-315-0040(3)(c)]
The water right permit holder's conformance with the permit and previous extension conditions.

11. The Department has considered the permit holder's compliance with conditions, and did not identify any concerns.

Based on FOF 11, the Department has determined that the permit holder has demonstrated compliance with permit conditions.

Beneficial Use of Water [OAR 690-315-0040(3)(b)]
The amount of beneficial use made of the water during the permit or previous extension conditions.

12. The Application identifies that 614.0 AF of water from Bill Creek has been stored in the 23 reservoirs authorized by the permit.

13. The Application identifies a maximum diversion rate from Bill Creek as 2.75 cfs.

Based on FOF 11 12, and 13, the Department has determined that full beneficial use of water has been demonstrated under this permit because permit conditions were satisfied by the October 30, 2019.

continued on following page

[1] **"Actual Construction"** is defined in OAR 690-315-0020(3)(d)(A)and(B) as physical work performed toward completion of the water system which demonstrates the water right permit holder's good faith and intention to complete the project with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land or planting crops.

Financial Investments to appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]

14. An invested approximately $1,694,367, in the development of this project. The Application identifies installation of a new diversion on Bill Creek and consolidation and construction of reservoirs.

Based on FOF 14, the Department has determined an investment towards the development of Permit R-12928 has been made.

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

The Application provides evidence that work has been accomplished towards completion of the water system; the permit holder has demonstrated compliance with permit conditions, and; the full volume of water has been stored in the 23 authorized reservoirs. The Department has determined the applicant has demonstrated reasonable diligence in previous performance under Permit R-12928.

The Market and Present Demands for Water [OAR 690-315-0040(4)(a-f)]

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

- *(a)The amount of water available to satisfy other affected water rights and scenic waterway flows;*
- *(b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);*
- *(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;*
- *(d) Economic investment in the project to date;*
- *(e) Other economic interests dependent on completion of the project; and*
- *(f) Other factors relevant to the determination of the market and present demands for water and power.*

OAR 690-315-0040(4)(a)
The amount of water available to satisfy other affected water rights and scenic waterway flows.

15. A review of the amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-12928; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an Application for a new water right is submitted.

16. Current Water Availability Analysis for the Bear Creek, (Tributary to Coquille River) at the mouth (watershed ID 70230) show that no water is available during the months of August, September and October at the 50% exceedance level.

OAR 690-315-0040(4)(b)
Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).

17. The points of diversion is located on Bill Creek, a tributary of Bear Creek, and is not located within a Withdrawn Area.

18. Bill Creek, a tributary of Bear Creek is not located within or above a state or federal scenic waterway.

19. The point of diversion is in a location listed by the Department of Environmental Quality as a water quality limited stream. Bear Creek, Watershed Unit (1st through 4th order streams) listed under Water Quality Limited for BioCriteria, Dissolved Oxygen, and Temperature.

OAR 690-315-0040(4)(c)
The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.

20. Bill Creek, a tributary of Bear Creek is located within an area ranked "highest" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife.

OAR 690-315-0040(4)(d)
Economic interests dependent on completion of the project.

21. An approximate total of $1,694,367 has been invested in the project.

OAR 690-315-0040(4)(e)
Other economic interests dependent on completion of the project.

22. Individual families utilize water from this permit for their cranberry operations.

OAR 690-315-0040(4)(f)
Other factors relevant to the determination of the market and present demand for water and power.

23. No other factors relevant to the determination of the market and present demand for water and power have been identified.

Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

24. The use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

25. The Application identifies that Oregon Department of Fish and Wildlife (ODFW) have requested improvements to the diversion on Bill Creek.

26. According to the Application, and previous applications for extension of time, the permit holder has identified that an ODFW compliant fish screen was installed in 2002.

Though ODFW is requesting an update to the intake, it is not considered a requirement that delayed the development of the water use authorized by the permit because the permit holder has identified that the required fish screen had been installed within the time authorized by the permit.

Unforeseen Events [OAR 690-315-0040(2)(h)]

27. The Application identifies the original landowners have passed away in the last few years.

Denial of an Extension Would Result in Undue Hardship [OAR 690-315-0040(2)(i)]

28. The Application identifies an undue hardship would result for the families who depend on water from these reservoirs for income.

29. According to the Application, the full volume of water has been stored in the 23 authorized reservoirs.

The Department has determined an undue hardship would not result from the denial of this extension of time because the Application has indicated that the permit is fully developed. Because the permit has been fully developed, within the time authorized by the previous extension of time, an extension of time is unnecessary and unwarranted. The Department instructs the permit holder to submit a Claim of Beneficial Use.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

30. The Application provides evidence of good faith of the appropriator under Permit

Based on Findings of Fact 7, through 14, and 21, above, the Department finds that the Applicant has demonstrated good faith.

Duration of Extension [OAR 690-315-0040(1)(c)]

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

31. As of September 13, 2021, the permit holder states the remaining work to be completed consists of consolidating existing reservoirs and constructing new reservoirs.

32. The Application identifies that the full volume of water has been stored in the 23 authorized reservoirs, in compliance with the terms and conditions of the permit within the time authorized. Consolidation of existing reservoirs and construction of additional reservoirs would require a new permit to either increase the authorized volume of water in the 23 reservoirs, or to authorize a new reservoir for the additional storage.

Based on FOF 11, 12, 13, 26, 31, and 32, the Department has determined the request for an extension of time from October 30, 2019, to October 1, 2024, is not reasonable or necessary because the Application identifies that the development of the authorized volume, rate, and number of reservoirs was completed; and compliance with all conditions has been demonstrated by October 30, 2019.

Good Cause *[OAR 690-315-0040(1)(d)]*

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has not shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

CONCLUSIONS OF LAW

1. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).

2. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

3. The application established construction of the 23 reservoirs is complete, the storage of the permitted volume of water has occurred, and compliance with conditions has been demonstrated within the time authorized by the permit and previous extensions. OAR 690-315-0040(1)(c)

PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Deny the time to apply water to beneficial use under Permit R-12928 from October 30, 2019, to October 1, 2024.

DATED: November 23, 2021

Dwight French, Administrator
Water Right Services Division

If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100 and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **January 7, 2022,** being 45 days from the date of publication of the proposed final order in the Department's weekly notice.

2. A written protest shall include:

   a. The name, address and telephone number of the petitioner;
   b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
   c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
   d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
   e. Any citation of legal authority supporting the petitioner, if known;
   f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
   g. The applicant or non-applicant protest fee required under ORS 536.050.

3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:

   a. Issue a final order on the extension request; or

b. Schedule a contested case hearing if a protest has been submitted, and:

1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or

2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through http://legalassistance.law.af.mil. The Oregon Military Department does not have a toll free telephone number.

- If you have any questions about statements contained in this document, please contact Jeffrey D. Pierceall at (503) 979-3213.
- If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-979-9160.
- If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
- Address any correspondence to : Water Right Services Division
  725 Summer St NE, Suite A
  Fax: 503-986-0901 Salem, OR 97301-1266

APP R-69708
Permit R-12928

Bandon Cranberry Water Control District

PO Box 1832 | Bandon, Oregon 97411

July 13, 2021

RECEIVED
JUL 19 2021
OWRD

Oregon Water Resource Department
Attn: Tracy Fox
725 Summer St NE A
Salem, OR 97301

~~Tracy,~~

The following is a list of members with their acre foot of water for Windhurst.

Haga	98.67
Manicke	60.72
John Roth	88.55
John Roth	106.26
Doug Richert	26.31
Daniel Davis	35.42

out card to you
please put in file
Thanks
Codi

Sincerely,

Scott Vierck,
Chairman, Bandon Cranberry Water Control District

Ted Freitag,
Treasurer, Bandon Cranberry Water Control District

Extension PFO Checklist for

Other than Muni or Quasi-Municipal

Water Use Permits

(OAR 690-315-0010 through OAR 690-315-0060)

Application: R-6998 Permit: R-6998 Permit Amendment? No ☐ Yes ☐ T-_____ ☐pending ☐approved

Permit Holder's Name: Windhurst Road Watering Corp

Permit Holder's Mailing Address: P.O. Box 1832 Bandon, OR 97411

email jKcranberries@yahoo.com

Phone Number: 541-297-6292

Agent/CWRE _____

Drainage Basin: South Coast County: Coos Watermaster District: 15 Watermaster: _____

Date Permit was issued: 10-10-2002 Priority Date: 6-1-1994 · SR 9-6-1988 - 100 AF Date of PN: 10-12-2021

Source: Bill Creek, a tributary of Bear Creek

Use: to be appropriated under permit S3703 for Cranberry Operations

"Q": 614 AF in 23 reservoirs (each specific vol)

Orig "A" Date: _____ Orig "B" Date: _____ Orig "C" Date: 10-1-2005

Extension request received: 9-13-2021 Last Authorized Date: _____ Last Authorized "C" Date: 10-30-2019

Request Number (1, 2, 3...): 3 Proposed "B" Date: _____ Proposed C Date: 10-1-2024

Conditions of Permit:

Condition Met?	Condition Not Met?	Permit Condition More on Back
2009		Begin construction: Cons as Approved Plans yes
2002		staff gage @ Bear & Bridge Cr conf.
1998		weir and staff gage @ POD
2001		totalizing flow meter & AWUR
2015		staffgage in Rs Fish Scree 2002

Factors to consider in determining "Reasonable Diligence" [OAR 690-315-0040(3)]:

Yes No

☒ ☐ Work was accomplished within the time allowed in the permit or previous extension

☒ ☐ Water right permit holder conformed with the permit or previous extension conditions

☒ ☐ Beneficial use made of the water during the permit or previous extension time limits

- Permit holder has beneficially used 1014 cfs/gpm/af of the total permitted quantity of water on NA acres 23 reservoirs constructed

☒ ☐ Financial investments were made toward developing the beneficial water use.

- Amount Invested to date: $_____ Estimated Remaining Cost: $_____

GW REVIEW: Y N _____

MITIGATION REVIEW: Y N

Did the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes ☒ No ☐

Application ___ - _____ Permit ___ - _____ Township _____ Range _____ Section _____

Determination of the market and the present demand for water or power to be supplied:

Identify the closest surface water or localized water basin. _____

Ground Water Permits: Is the POA located…

Surface Water Permits: Is the POD located…

Yes	No		
☐	☒	above a state scenic waterway?	Source: OWRD "Areas Above State Scenic Waterways" Map
☐	☒	within a stream segment designated as a federal wild and scenic river?	Source: www.rivers.gov/wildriverslist.html
☐	☒	within a critical or limited Ground Water Area?	Name of area _____
☒	☐	within a sensitive, threatened or endangered species area	source: "/gisdata/dev/projects/salmon/div33map.aml"
☒	☐	in a waterbody listed on the DEQ Section 303(d) List of Water Quality Limited Areas?	Date added to list _____
☒	☐	within an area ranking low / moderate / high / Highest *(circle one)* for stream flow restoration needs	Source: OWRD "Streamflow Restoration Needs" Maps (by region)

Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. ☐ Approval of Extension Request

No ... "Good Cause" *cannot* be found. ☒ Denial of Extension Request

Based on the EOT App. Permit is fully developed. EOT requested to expand and consolidate fully developed reservoirs. A new permit application should be filed for this.

Conditions to be included in Extension PFO (if applicable)? Yes ☐ No ☐

(NOTE: Check the file record for documentation to add a condition(s) at the extension stage.)

☐ 5-year Progress Report Checkpoints (Years: _____)

☐ Other: _____

Footnote regarding Claim of Beneficial Use. Choose the appropriate language below and insert as a footnote in the PFO:

☐ **COBU Requirement - Surface/Ground Water - on or prior to July 9, 1987**

"For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625."

☐ **COBU Requirement - Surface Water - post July 9, 1987**

"Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

☐ **COBU Requirement - Ground Water - post July 9, 1987**

"Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

NOTES: Cond cont

	Date of Comp
No Fill until Eng Exam	2002
No Storage until written cert.	2002

Extension "PFO" Dates

Mailing / Issuance Date: _____ **Protest Deadline Date:** _____ **FO Issuance Date:** _____

Reviewer's Name: J.P **Date:** _____

---

* The App for EOT, as well as the previous EOT App asserts the full volume stored in a total of 23 reservoirs. Previous EOT was to allow installation of staff plate, which was accomplished.

Application: R-69708 Permit: R-12928

Public Notice Route Slip ... New Application Extension of Time per Division 315 Rules... (Extensions received on July 1, 2001 or after)

Applicant/Permit Holder(s) Windhurst Road Watering Corp
P.O. Box 1832
Bandon OR 97411

Proposed Completion Date: 10-1-2024

☐ WRIG...Money Receipted on: 7-8-2021 & 9-13-2021 ← complet app date

☐ Extension Specialist ...

☐ Added to tracking spreadsheet

After fee is receipted and app is added to spreadsheet, route to...

☒ Tonya Miller...

☒ Recent Assignment (Check WRIS for Update)

☒ Publish on Public Notice (initial 30-day comment): Date of notice 10/12/2021

☑ Update WRIS Database

☒ In the "PNotice Date" field... Enter the date the Extension Application was published on the Public Notice.

☑ In the "Ext Filed" field... Enter the date the Extension Application was received.

☐ Yes or ☐ No: Return file to Extension Specialist after PN _____

NOTES:

R

WINDHURST ROAD WATERING CORPORATION

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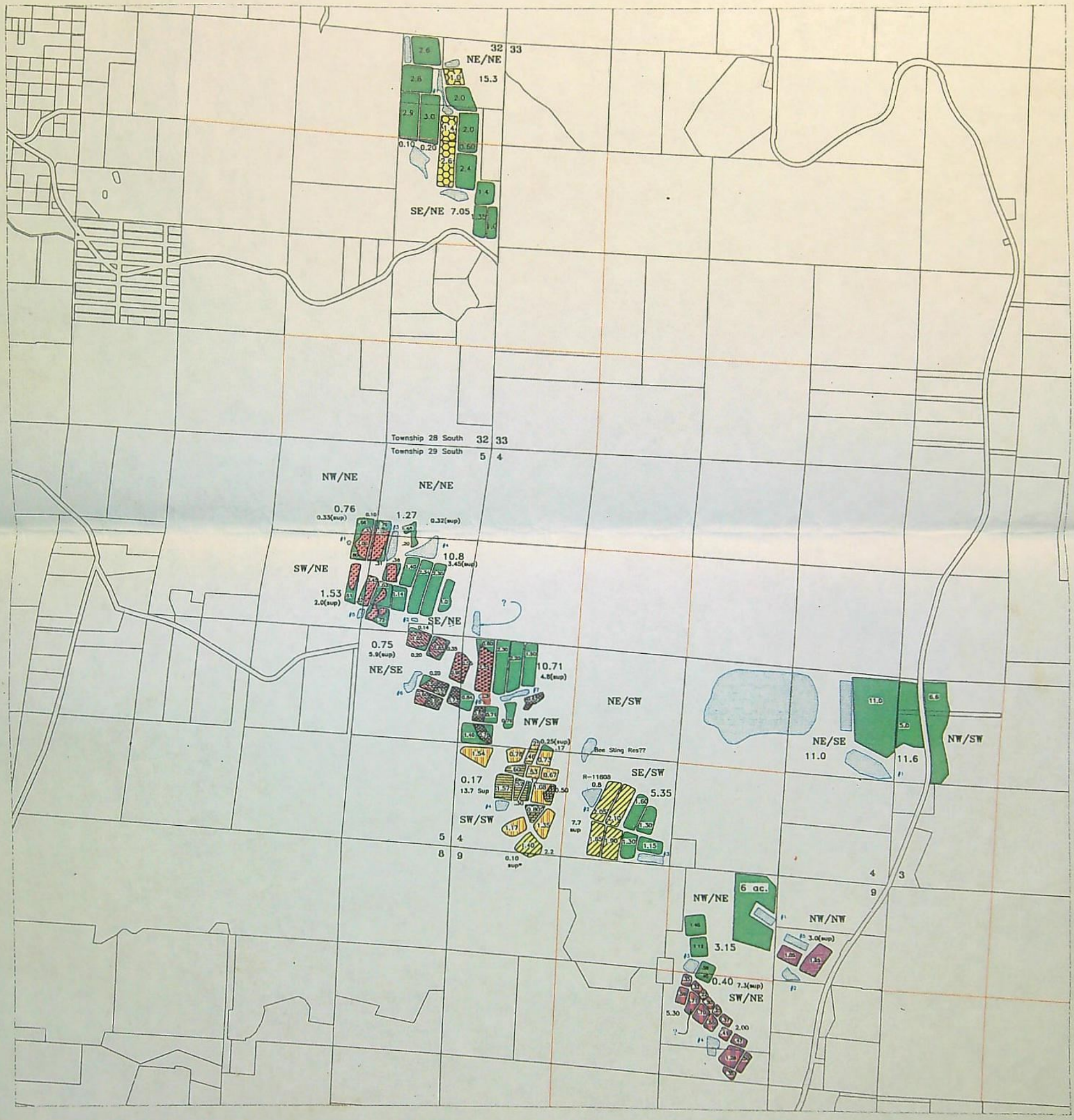
T.28S & 29S, R.14 W., W.M.

Application R–69708 Permit R–12928
Application S–69654 Permit S–53703

Coos County Oregon



Supplemental Cranberry Operations (32.1 ac.)
18.1 application vs 32.1 in bogs

Primary Agricultural Use (27.1 ac.)
(Sup. IR not in permit)
27.7 application vs 27.1 in bogs

New Primary Cranberry Operations
162.4 application vs 86.15 proposed
(57.55 in bogs + 28.6 not built)

NORTH

Reservoirs
23 application vs 25 proposed

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Scale
1 inch = 1320 feet

5-27-10
DRAFT

STATE OF OREGON

WATER RESOURCES DEPARTMENT

RECEIPT # 135796

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIVED FROM: Bandon Cranberry Water Control District

BY:

APPLICATION	R-69708
PERMIT	
TRANSFER	

CASH: ☐ CHECK:# ☒ 1777 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D $ 670.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	$
_____	OTHER: (IDENTIFY) _____	$

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

46111

MISCELLANEOUS

0407	COPY & TAPE FEES	$
0410	RESEARCH FEES	$
0408	MISC REVENUE: (IDENTIFY) _____	$
TC162	DEPOSIT LIAB. (IDENTIFY) _____	$
0240	EXTENSION OF TIME	$ 670.00

WATER RIGHTS:

		EXAM FEE		RECORD FEE
0201	SURFACE WATER	$	0202	$
0203	GROUND WATER	$	0204	$
0205	TRANSFER	$		

WELL CONSTRUCTION

		EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	$	0219	$
	LANDOWNER'S PERMIT		0220	$

_____ OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	$	CARD#
0210	MONITORING WELLS	$	CARD#

_____ OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)		$
0231	HYDRO LICENSE FEE (FW/WRD)		$
_____	HYDRO APPLICATION		$

_____ TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ $

RECEIPT: 135796 DATED: 7-8-2021 BY: Mindy Carlson

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

Windhurst Sub Accou Windhurst Water Rights Extension 1 of 2 670.00

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BANDON CRANBERRY WATER 1777

Oregon Dept Water Resources 6/30/2021

Date	Type	Reference	Original Amt.	Balance Due	Discount	Check Amount	Payment
6/30/2021	Bill		670.00	670.00			670.00
							670.00

Application for Extension of Time for a Water Right Permit (NON-Municipal/NON Quasi-Municipal water Use)

OREGON WATER RESOURCES DEPARTMENT

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

Criteria for a Permit Extension of Time

The Department can accept requests for an extension of time on permits to (1) complete construction, and/or to (2) apply water to beneficial use.

In order to approve a permit extension request the Department must be able to find:

1) **Construction has begun:**

   A. **For Groundwater Permits**
   Construction of the well(s), *authorized by the permit*, began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

   B. **For Surface Water or Reservoir Permits**
   Construction of the water system began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

The Department will also confirm that:

2) If required, a fish screen, fish passage or fish by-pass device was installed before or prior to diversion of any water. An exception to the need to confirm installation prior to diversion of any water would be a waiver submitted to the Department from ODFW stating that a fish screen, fish passage or fish by-pass device was not required, provided your permit allows for a waiver.

If you have questions, please call the Department at (503)-986-0900 and ask to speak with a permit extension specialist.

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OREGON WATER RESOURCES DEPARTMENT

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TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

A separate extension application must be submitted for <u>each</u> permit as per OAR 690-315-0020(2).

I, Windhurst road watering corp.
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

Po box 1832 Bandon OR 97411
ADDRESS CITY STATE ZIP

541-297-6292 1kcranberries@yahoo.com
PHONE E-MAIL ADDRESS

the permit holder of: Application Number R- 69708

Permit Number R-12928
[OAR 690-315-0020(3)(b)]

do hereby request that the date by which the water development will be completed and water put to full beneficial use, which time now expires on Month: October Day: 01 Year: 2019, be extended to October 1, 2024, *[OAR 690-315-0020(3)(i)]*

I am the permit holder, and may apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

Scott Vierck 6/9/2021
Signature **Date**

SCOTT R. VIERCK chairman
Printed Name **Title**

The agent below is authorized to represent the applicant in all matters relating to THIS application. SRV
Permit Holder Initials

Authorized Agent (Print Agent Name) **Agent contact**

Before submitting your Application for Extension of Time, make sure the following items are included:

- This completed Application for Extension of Time.
- Statutory fee of $670
- Signature page (Second page of this Application for Extension of Time).
- Letter granting an agent authority to act on behalf of the permit holder (*if applicable*)
- All supporting documentation and/or evidence referenced in the Application for Extension of Time. (ODFW Fish screen approval or waiver, contract for stored water, etc)

MAIL COMPLETED APPLICATION
along with the Supporting documents and/ or evidence and correct fee to:

Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

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GENERAL TIPS:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form.** The correct form is APPLICATION FOR EXTENSION OF TIME FOR MUNICIPAL AND QUASI-MUNICIPAL WATER USE PERMITS.

- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.

- A separate APPLICATION FOR EXTENSION OF TIME must be submitted for each permit. OAR 690-315-0020(2).

- Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at the State of Oregon, Secretary of State Website. To be granted an extension of time, the Department must make four specific findings; 1) the application is complete, 2) construction of the water system began, 3) there is good cause, and 4) the project can be completed within the time being requested. If the Department cannot make all four findings, the extension of time cannot be approved.

- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 690-315-0020(3)(n).

- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights Services Division.

- An Application for an Extension of Time will be reviewed for completeness. A response is required for each item contained in the application. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- **The water right permit.** If needed, a copy of the water right permit can be downloaded from the Department's Website, or, a copy of the permit may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).

- **Previous Applications and Orders.** Copies of previous applications and orders that may inform the completion of the Application for Extension of Time, if available, may be downloaded from the Department's Website. **NOTE: If the document requested is not available on the Department's website, you may be required to submit a Public Record Request.**

- **Documentation which demonstrates compliance with permit conditions** (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Questions to complete this application for an Extension of Time
Please see the instruction sheet to help you answer these items.

1. **Beginning Construction within required deadlines.** OAR 690-315-0020(3)(d)

For Groundwater Permits

Has construction of the point of appropriation (well) authorized under this permit begun?
☐ **Yes** ☐ **No**

Date construction began Month: Day: Year:

Details of construction and attach documentation:

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For Surface/Reservoir Permit

Has construction of the water system begun? ☒ **Yes** ☐ **No**

Date construction began Month: Day: Year: 1998

Details of construction and attach documentation: begin construction of Windhurst Reservoir

OAR 690-315-0020(3)(A)(e)(A)

2a. Permits typically contain standard or special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column are contained within it. Using the extra row labeled "other" to specify any other additional conditions included in the permit, or specified in a final order approving a permit amendment or prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check "Yes" if you have completed or met the permit condition. Check "No" if the condition is not yet satisfied. In the 4th column, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation. Note: a pump test condition does not need to be addressed here however; you must submit the results of the test to the Department for approval prior to certification.

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CHART-A

Permit Conditions in this Permit		Have Completed or Met?	Date satisfied/ or will be satisfied
Checkbox	Ground water Check those included on this permit		
☐	Installation of a meter/totalizing flow meter	☐ Yes ☐ No	
☐	Submittal of annual water usage report	☐ Yes ☐ No	
☐	Submittal of initial static water level measurement	☐ Yes ☐ No	
☐	Submittal of annual static water level measurements in the month required	☐ Yes ☐ No	
☐	Submittal of Seven consecutive static water level measurements in the month required	☐ Yes ☐ No	
☐	Special well construction standards	☐ Yes ☐ No	
☐	Submittal of a monitoring plan	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
	Surface Water or Reservoir		
☒	Installation of a meter/ totalizing flow meter	☒ Yes ☐ No	2001
☒	Submittal of annual water use report	☒ Yes ☐ No	2001
☒	Installation of a fish screen	☒ Yes ☐ No	2002
☐	Installation of a fish by-pass device	☐ Yes ☒ No	NA
☐	Installation of a fish passage	☐ Yes ☒ No	NA
☒	Installation of an outlet gate/pipe/ conduit	☒ Yes ☐ No	1999
☒	Submittal of a letter from ODFW that fish screen, fish by-pass device, and or fish passage is not required	☒ Yes ☐ No	2002
☒	Submit as-built plans and specification	☒ Yes ☐ No	
☒	Submittal of a letter from an engineer prior to storage	☒ Yes ☐ No	2002
☒	Other (Specify): outlet cycled each year	☒ Yes ☐ No	2002
☒	Other (Specify): staff gages installed in all constructed reservoirs	☒ Yes ☐ No	2015
☒	Other (Specify): weir and staff gage installed on Bill Cr.	☒ Yes ☐ No	1998
☒	Other (Specify): staff gage installed on Bear Cr.	☒ Yes ☐ No	2000

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2b. If you have identified that you have NOT complied with Permit conditions, explain the reasons why and indicate a date certain, when you will be in compliance.

[OAR 690-315-0020(3)(e)]

3. Provide evidence of physical work made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B); and if applicable, within the time period of the most recent extension granted (CHART-C). CHART-B (below) must be completed for all Application for Extension of Time requests. *Use chronological order.* Itemize each work item, and do not combine multiple work actions in one area. (Planning, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land, or planting crops ***is not*** *considered work in the development of the water system.* ***Work accomplished under other water rights may not be considered work under this permit.***)

CHART-B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED *List any work done before the permit was issued – eg. well drilled.*	COST*
	See attachment B	1,600,000
DATE	**WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER** *List work/actions done during the permitted time period.*	**COST***
10/10/2000	**Date the permit was signed** - find date above signature on last page of permit.	
10/10/2001	Date by which actual construction work shall begin	
2001	Install pump, electrical & valves for Windhurst Reservoir	12,050
2001	Partial excavation of Haga Res. #1	4,000
2002	On site geologist during filling of Windhurst Reservoir	7,900
2002	Fish screen installed on Bill Creek	2,617
2004	Partial excavation of Scherer Res. #2	4,000
10/1/2005	**Date the permit specified complete application of water to the use shall be made-** all permits contain this date.	
DATE	**WORK ACCOMPLISHED AFTER the date the permit specified complete application of water and prior to any previous extension order** *COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR AN EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.*	**COST***
	Total Cost for Chart-B	**1,630,567**

*** If exact cost is not known, you must provide your best estimate.**

4. If this is <u>not</u> your 1st Application for Extension of Time request, fill out CHART-C below in addition to CHART-B above. *Use chronological order.*

CHART-C

DATE	WORK ACCOMPLISHED <u>DURING</u> THE LAST EXTENSION PERIOD *List all work done during the last authorized extension period.*	COST*
10/1/2014	**"Extended From" date for complete application of water used in the most recent Final Order on Extension of Time.**	
2014-2019	Manicke – Extension to 50% of ponds to finish	10,000
2014-2019	Scherer – install staff gages after 2014 harvest, Enlarge Res. #1 & #2	10,000
2014-2019	Haga – install staff gages after 2014 harvest, Complete Bee Sting Res.	10,000
2015	Install new water meters	3,600
2015	Install staff gages for Haga and Scherer	2000
2015	Finish Bee Sting Reservoir	10,000
2017	Run water line to Bee Sting Res.	6,500
2018	Dig Manicke Reservoir	7,800
10/30/2019	**"Extended To" date for complete application of water resulting from the most recent Final Order on Extension of Time.**	
DATE	**WORK ACCOMPLISHED <u>AFTER</u> THE LAST EXTENSION PERIOD EXPIRED** *List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.*	**COST***
1/20/2020	Replace Bill Creek pump	5000
2/5/2020	Install pump protection	3,900
	Total Cost of Chart-C	**68,800**

*** If exact cost is not known, you must provide your best estimate. [OAR 690-315-0020(3)(f)]**

5. **Cost of project to date:** <u>1,699,367+</u>

(The total combined cost from CHART-B and CHART-C) **[OAR 690-315-0020(f)]**

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[OAR 690-315-0020(3)(e)(B)]

Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit made to date.

TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

6. For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

TIP: Report the rate in the same units of measurement as specified in the permit.

Maximum rate used to date = _____ cfs (cubic feet per second) *or,*

Maximum rate used to date = _____ gpm (gallons per minute) *or,*

Maximum volume of stored water used to date = or,

Maximum volume stored annually to date = approximately 614 AF

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7. For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED: Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment?	Maximum instantaneous rate used to date from this well - - under this permit only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total instantaneous rate from all wells utilized under this permit								

8. Has a Permit Amendment Application been filed? Yes ☐ No ☒

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If yes, identify Transfer No. T-_____

[OAR 690-315-0020(3)(e)(C)]

9. For Irrigation and Nursery Use Permits Extensions

Provide the total number of acres irrigated to date under this permit.

a) Total acres irrigated to date: _____

b) List by year, the number of acres irrigated each year since permit issuance.

Year	Acres	Year	Acres	Year	Acres

c) Provide a copy of the application map identifying the acres irrigated.

d) Please specify the number of acres irrigated by each Point of Diversion/Point of Appropriation (POD/POA).

(POD/POA)#_____ Acres_____ (POD/POA) #_____ Acres_____

(POD/POA) #_____ Acres_____ (POD/POA) #_____ Acres_____

[OAR 690-315-0020(3)(i)(j)]

10. In the chart below provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2021-2026	Bills Creek LLC to construct and consolidate reservoirs, construct new bogs	275,000
2021--2022	Complete New diversion from Bill Creek in Cooperation with ODF&W	70,000
Year:	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
	Total Cost	345,000

[OAR 690-315-0020(3)(g)]

11. Estimated remaining cost to complete the project: 345,000

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(The total cost from CHART-E)

[OAR 690-315-0020(3)(j)]

12. Provide a summary of your plan to complete construction, meeting all permit conditions and apply the water to beneficial use: *(List all tasks or steps needed to complete the project, the date when each task will be completed, and the cost associated with each task; attach additional pages if necessary.)* All conditions of permit are currently met. Reservoirs to be constructed or enlarged by 2028

[OAR 690-315-0020(3)(k)]

13. Justify the time requested to complete the project and/or apply the water to full beneficial use. *(Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.)*

The project is designed to take longer to complete than the permit allowed due to the size of acreage and owners involved. Ownership of properties in the permit have changed hands. Increase in expenses and fluctuating costs of cranberries have made the project more difficult to complete. Cranberry prices have risen recently which will help move the project forward. See also #16 below

[OAR 690-315--0020(3)(l)

14a. Will a denial of the extension result in undue hardship? *(Describe the hardship and the effects.)* There are multiple family farms covered under this permit and all of them use it. The total investment to date is approximately $2,000,000. These families depend on the income from farming cranberries.

14b. Are there any other reasonable alternatives that exist for meeting your water use needs? *(Explain in detail, consider other potential sources of water, and describe their feasibility)* None There are no other potential sources of water which are feasible for the volume of water that is necessary

[OAR 690-315-0020(3)(h)

15. Was the delay in the timely completion of this water development project and/or timely application of water to full beneficial use caused by any additional government requirements, other than the conditions contained within the permit, which significantly delayed the completion and perfection of this right? *(Explain in detail, including how much time did this delay the project; list dates.)* Yes. ODF&W has requested improvement to diversion on Bill Creek. We have entered into a cost share project improve the diversion which will move it slightly. Project scheduled to be completed in 2022. This has delayed the possibility doing the COBU.

[OAR 690-315-0020(3)(h)

16. Describe any unforeseen events which contributed to the delay of completion of this project that you had no control over. *(Explain in detail what the unforeseen events were (i.e. health issues, natural disaster) and how much time was spent addressing the unforeseen events.)* Original property owners under this permit, W. Scherer, F Richert and R. Haga have all passed away in the last few years. Ownership of Scherer property has been purchased by Bill Creek LLC.

[OAR 690-315-0020(3)(h)]

17. Describe an additional reasons why the construction was not completed, and/or water was not beneficially used within permit time limits. *(Provide supporting information for the reason(s) that best fits your circumstances.)*
Higher cost of expansion and development coupled with lower cranberry prices

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[OAR 690-315-0020(3)(m)(n)]

18. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.
This is a very complex and expensive project planned to be developed over a longer period of time than allowed. There are multiple owners covered by this permit with varying timelines for completion. This permit is directly tied to the use permit S-53703 so it is difficult to separate the costs.

[OAR 690-315-0040(2)(f)]

19. Will the income or use of the water project provide a fair and reasonable return on your investment? *(Explain in detail)* Yes. Anytime a farmer invests time, income and energy into developing their land there is an expected return on that investment. Cranberry farming is and has been a way of life in this area.

[OAR 690-315-0040(4)(d)]

20. Describe in detail if there are other economic interest, beyond those of the permit holder, which are dependent upon the completion of this project. *(Who will be effected and how?)* The individual families that farm cranberries under this permit.

The farmers and families in this area support the surrounding communities. We have accounts with and spend money at the local business – fuel companies, equipment suppliers, fabricators, restaurants, etc. all have the potential for impact.

Attach permit, and documentation to the application

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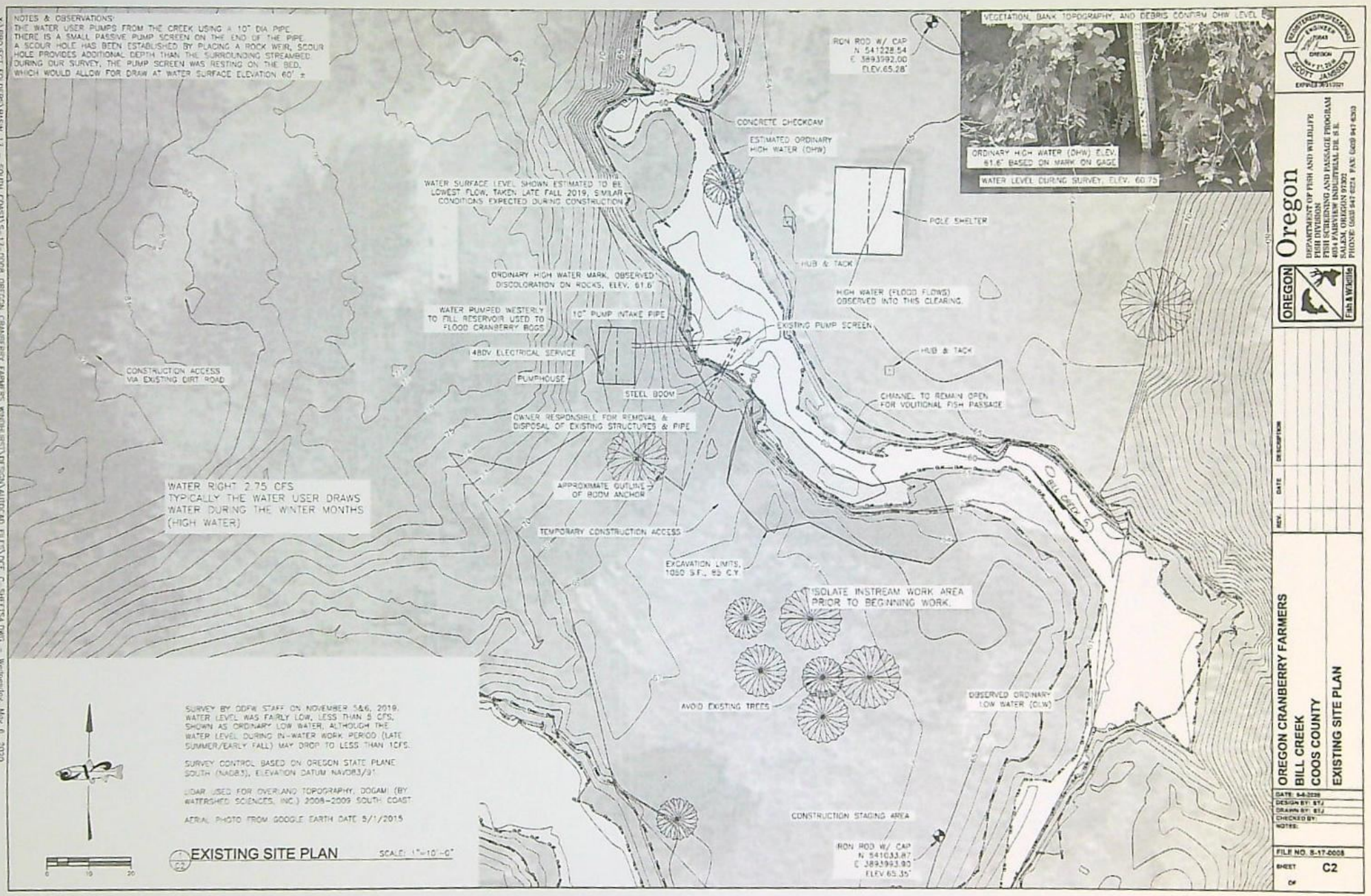

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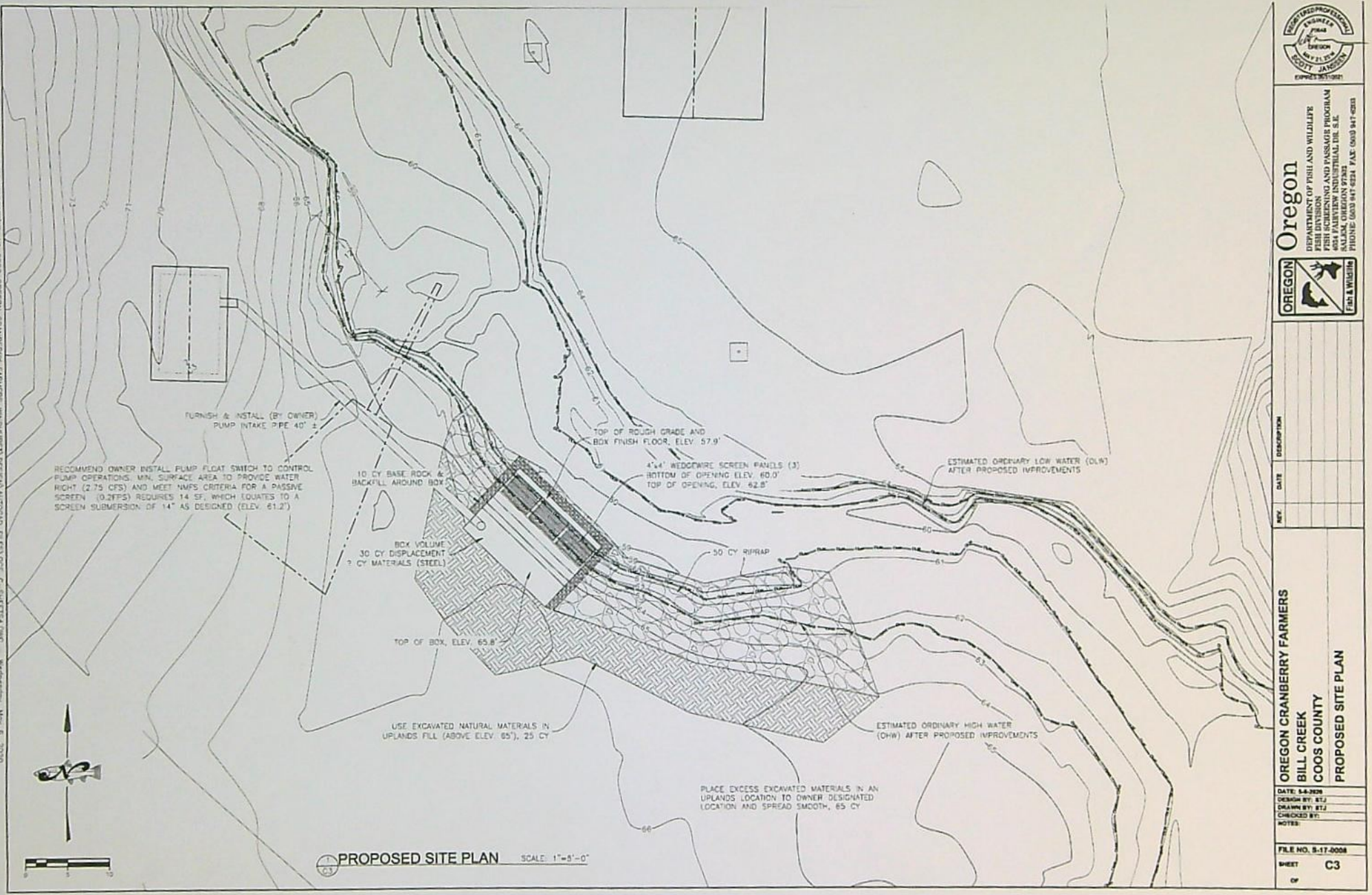

REGISTERED PROFESSIONAL ENGINEER
OREGON
MAY 21, 1974
SCOTT JANSSEN
EXPIRES: 06/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH PASSAGE AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6234 FAX: (503) 947-6203

OREGON Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
PROPOSED SITE PLAN

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET C3
OF

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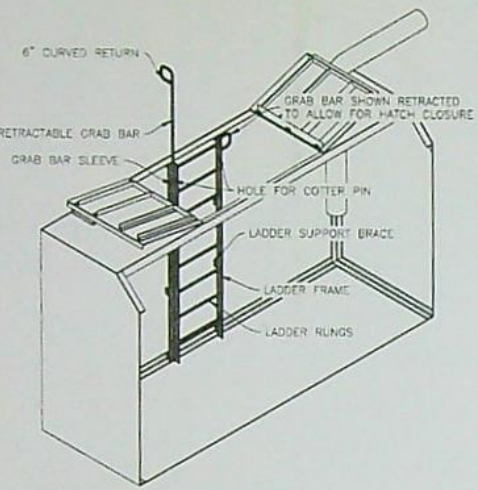
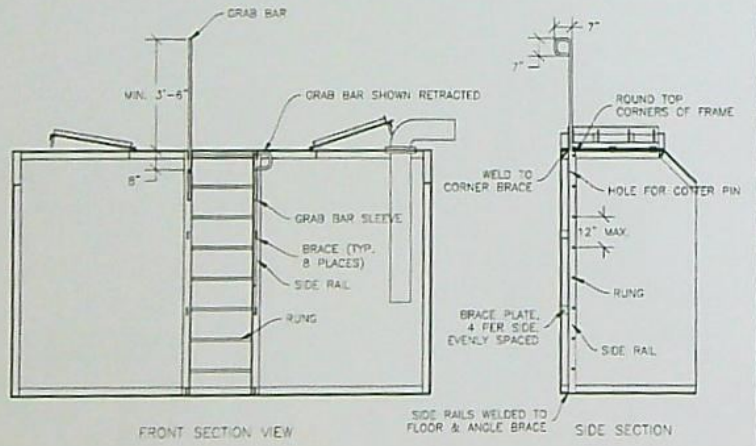
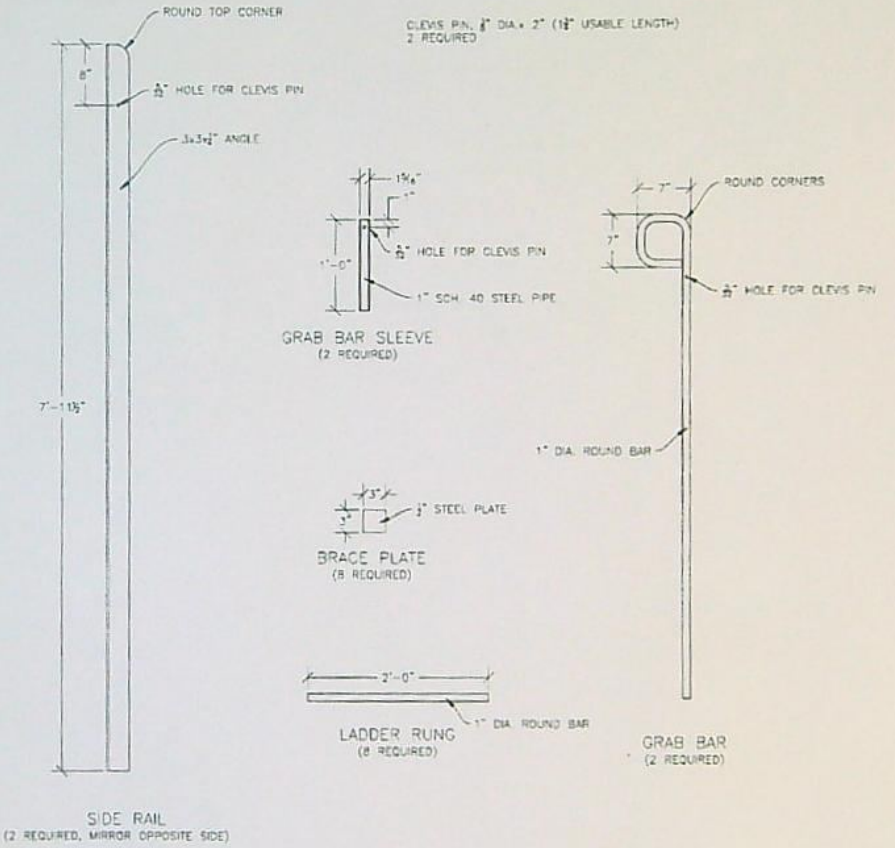


1/S9 LADDER ISOMETRIC VIEW SCALE: N.T.S.



2/S9 LADDER ASSEMBLY SCALE: 3/8"=1"



3/S9 LADDER COMPONENTS SCALE: 1 1/2"=1'-0"

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN
EXPIRES: 06/31/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH PASSAGE AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
LADDER

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S9
OF

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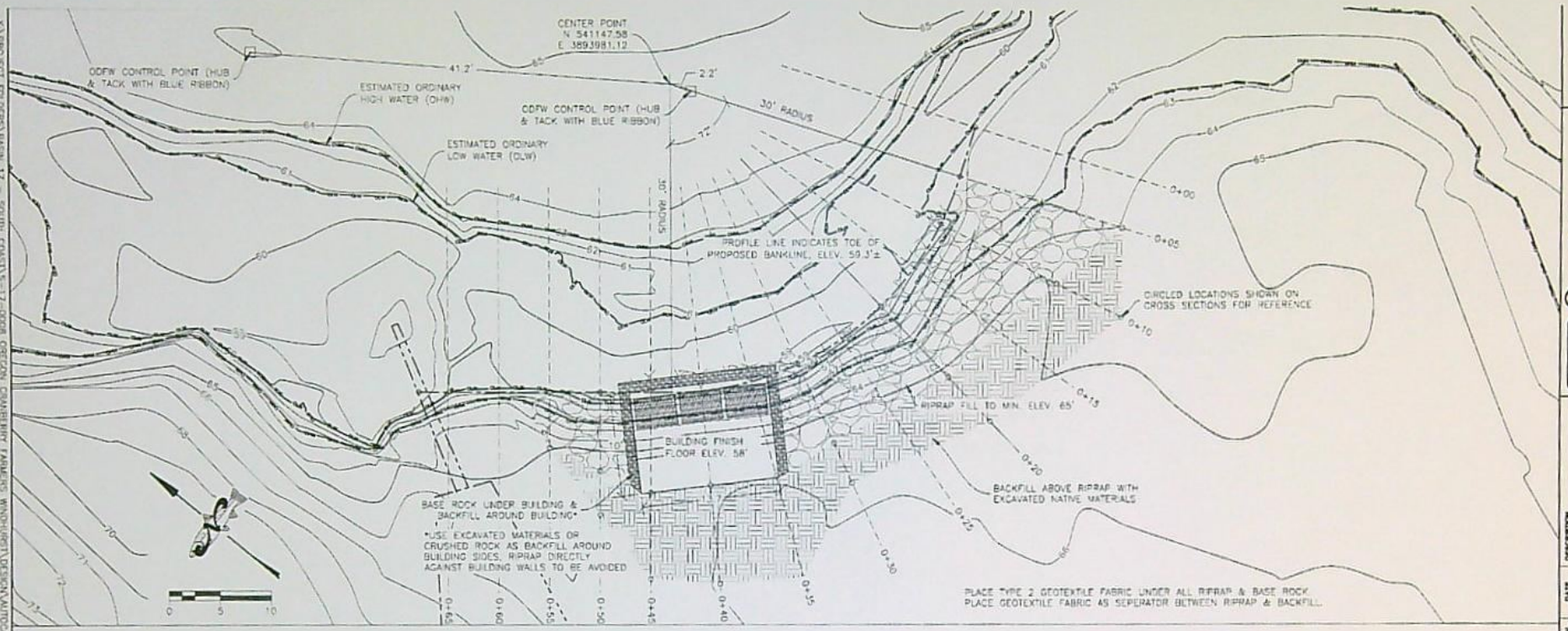
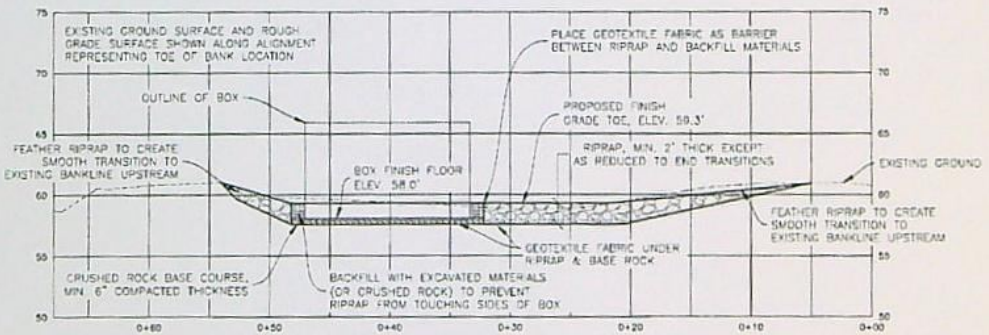


1/C4 **LAYOUT PLAN** SCALE: 1"=5'-0"



2/C4 **PROFILE** SCALE: 1"=5'-0"
ALONG LEFT BANK TOE

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JAMIESON
EXPIRES: 06/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

NO.	DESCRIPTION	DATE

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
LAYOUT PLAN & PROFILE

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET C4
OF

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JUL 08 2021
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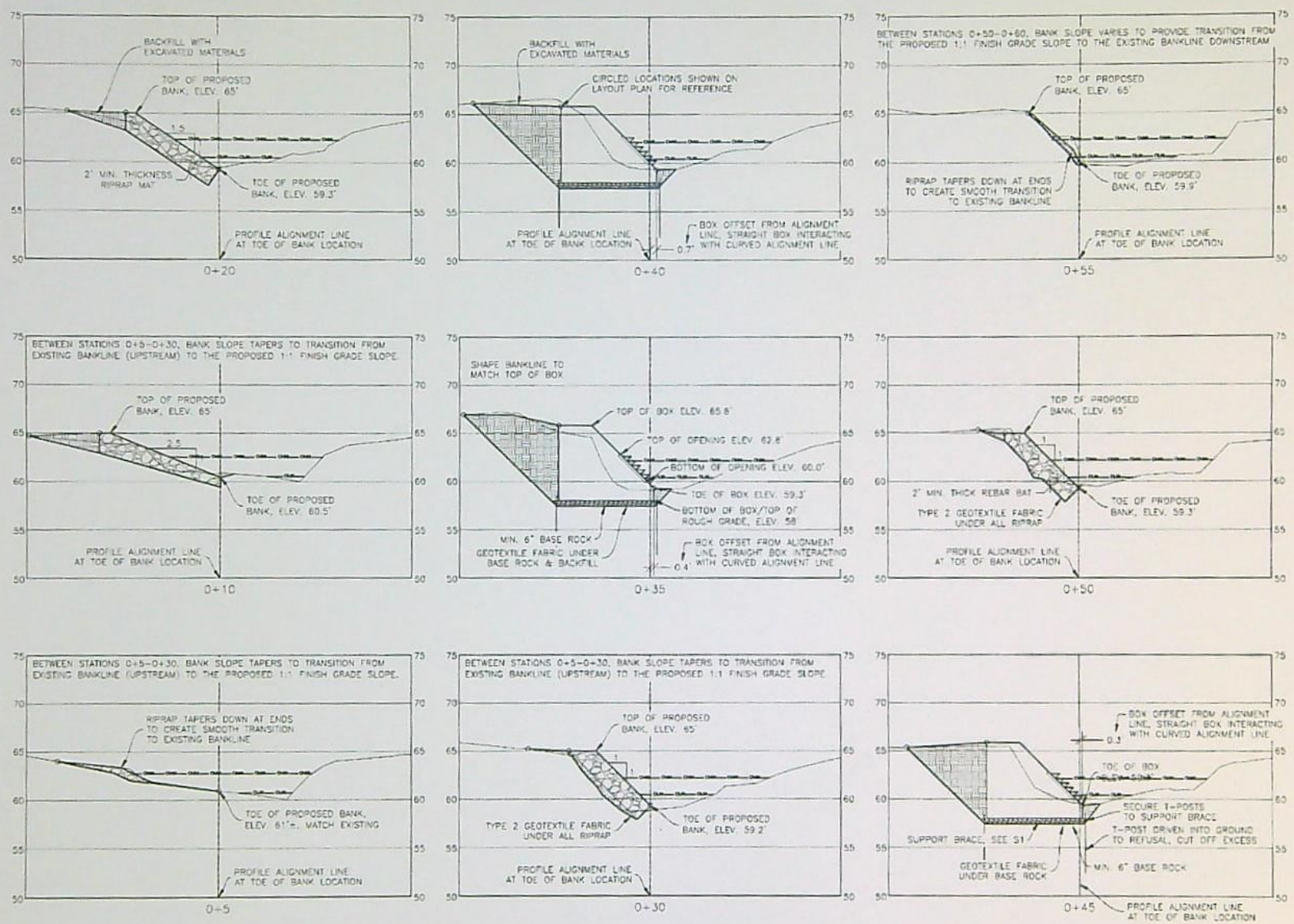

1/C5 CROSS SECTIONS SCALE: 1"=5'-0"

REGISTERED PROFESSIONAL ENGINEER
OREGON
MAY 21, 2014
SCOTT JAMISON
EXPIRES: 06/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE (503) 947-6224 FAX (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
CROSS SECTIONS

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET C5
OF

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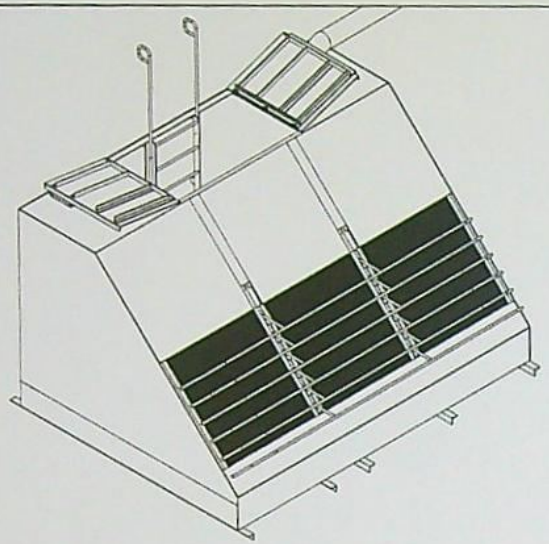
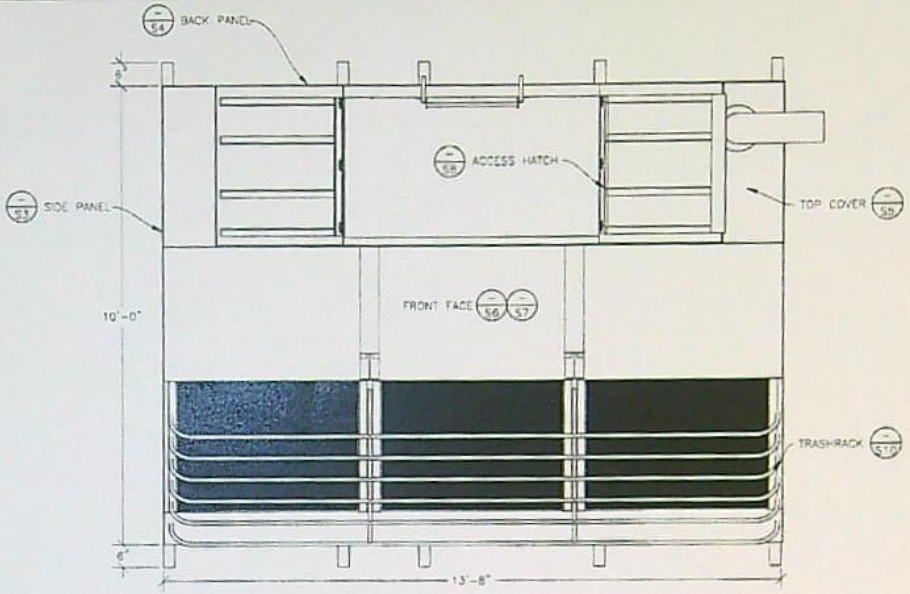
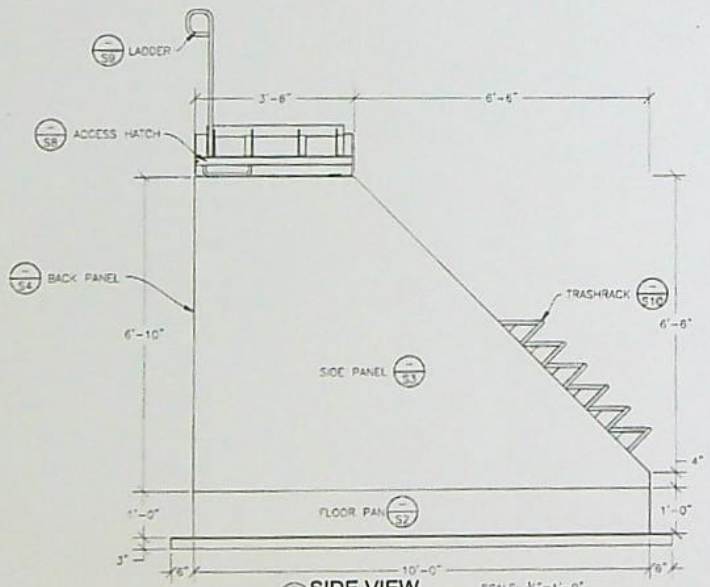


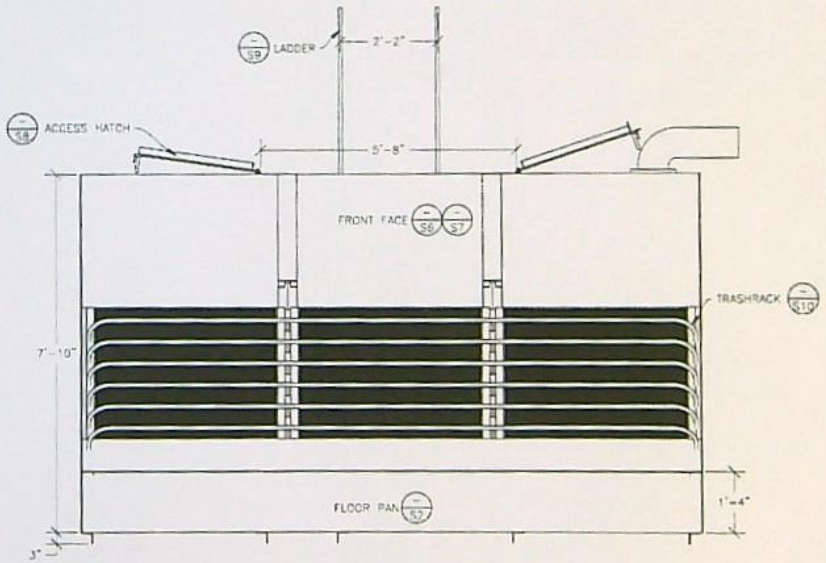
1/S1 SUMP BOX ASSEMBLY SCALE: N.T.S.
ISOMETRIC VIEW



4/S1 TOP VIEW SCALE: 3/4"=1'-0"



2/S1 SIDE VIEW SCALE: 3/4"=1'-0"



3/S1 FRONT VIEW SCALE: 3/4"=1'-0"

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN
EXPIRES: 06/31/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

OREGON Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
SUMP BOX

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S1
OF

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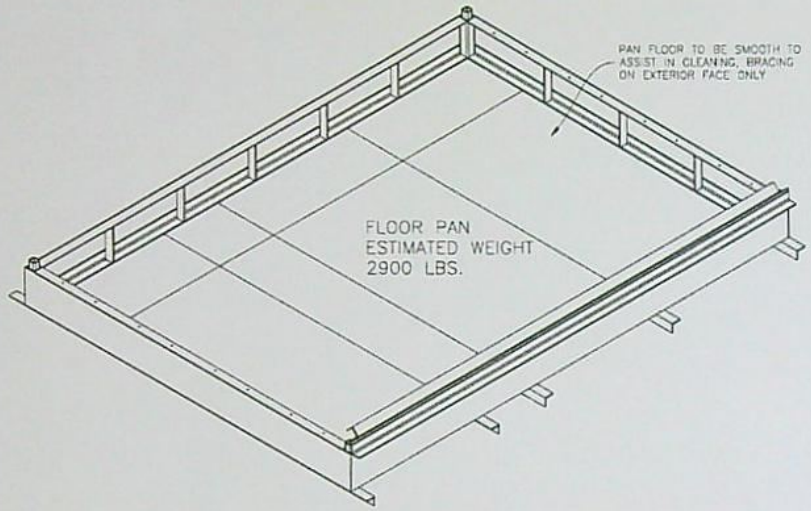
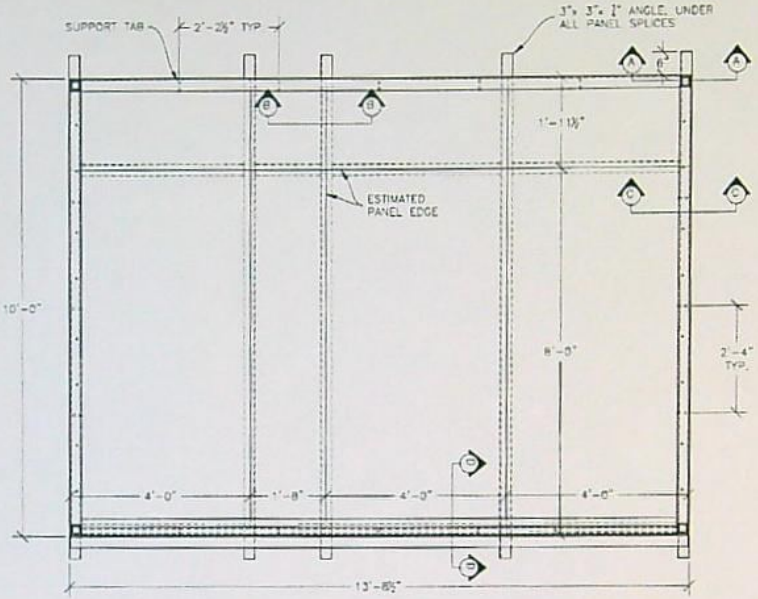
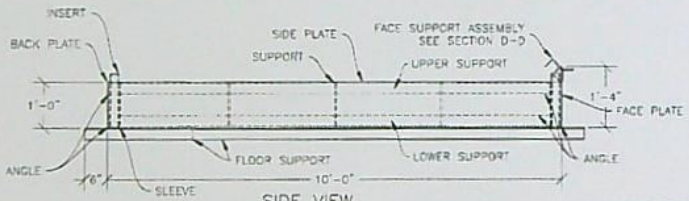


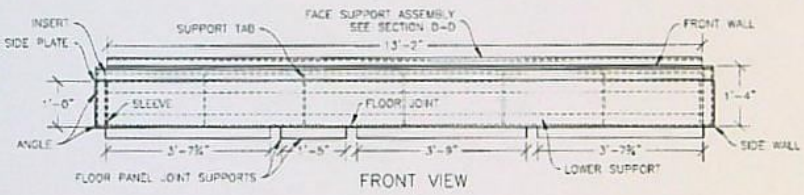
ISOMETRIC VIEW



TOP VIEW



SIDE VIEW

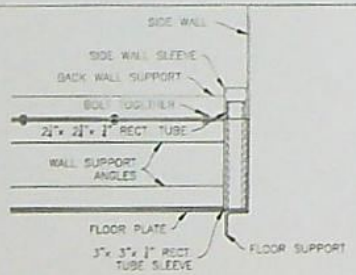


FRONT VIEW

FLOOR PAN

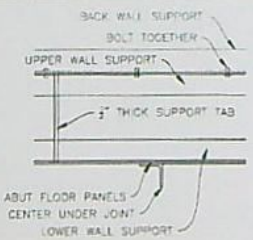
SCALE: ¾"=1'-0"

(1/S2 VIEWS)



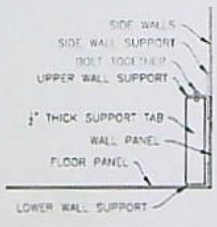
SECTION A-A

CORNER SLEEVE DETAIL



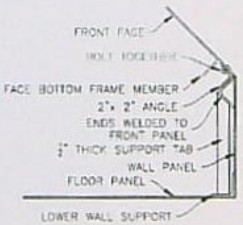
SECTION B-B

FLOOR PANEL SPLICE & WALL SUPPORTS TYP. OF SIDE WALLS & BACK WALL



SECTION C-C

WALL SUPPORTS



SECTION D-D

FRONT FACE SUPPORT

SECTIONS VIEWS

SCALE: 1½"=1'-0"

(2/S2)

MATERIALS

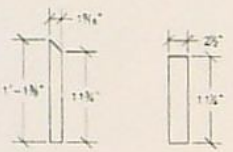
3"x 3"x ¼" ANGLE
- SIDES - 4 @ 9'-9½"
- BACK - 2 @ 13'-2"
- FRONT - 3 @ 13'-2"
- FLOOR - 5 @ 11'-0"
- FLOOR - 2 @ 3'-7⅝"
- FLOOR - 1 @ 3'-9"
- FLOOR - 1 @ 1'-5"

2"x 2"x ¼" ANGLE
- FRONT - 1 @ 13'-2"

½" STEEL PLATE (AS SHOWN)
- FLOOR - 3 @ 4'x 8'
- FLOOR - 1 @ 1'-8"x 8'
- FLOOR - 3 @ 4'x 1'-11½"
- FLOOR - 1 @ 1'-8"x 1'-1½"
- SIDES - 2 @ 1'-0"x 10'-0"
- FRONT - 1 @ 1'-4"x 13'-8"
- BACK - 1 @ 1'-0"x 13'-8"

3"x 3"x ¼" RECT. TUBE
- SLEEVE - 4 @ 1'-1½"

2½"x 2½"x ¼" RECT. TUBE
- INSERT - 4 @ 1'-2"



SUPPORT TABS ½" STEEL PLATE

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN
EXPIRES: 06/31/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVERSION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

OREGON Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FLOOR PAN

DATE: 5-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S2
OF

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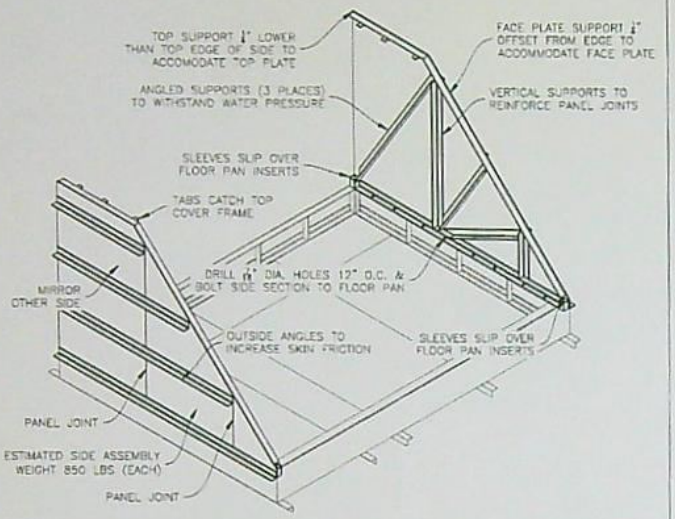
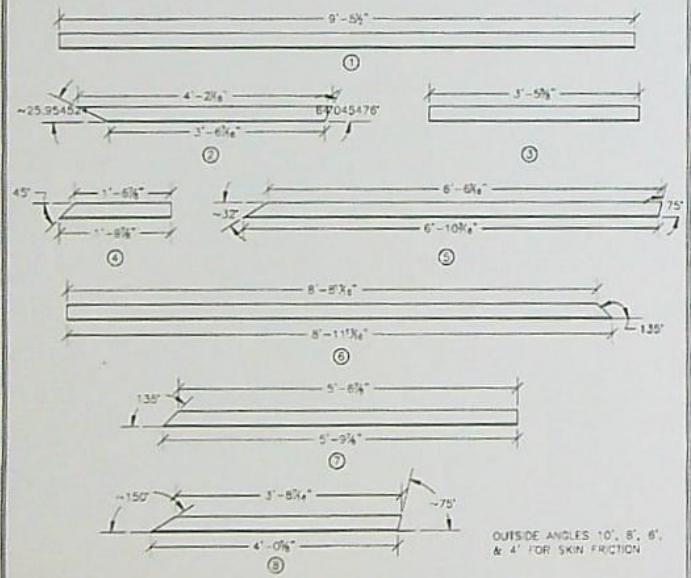


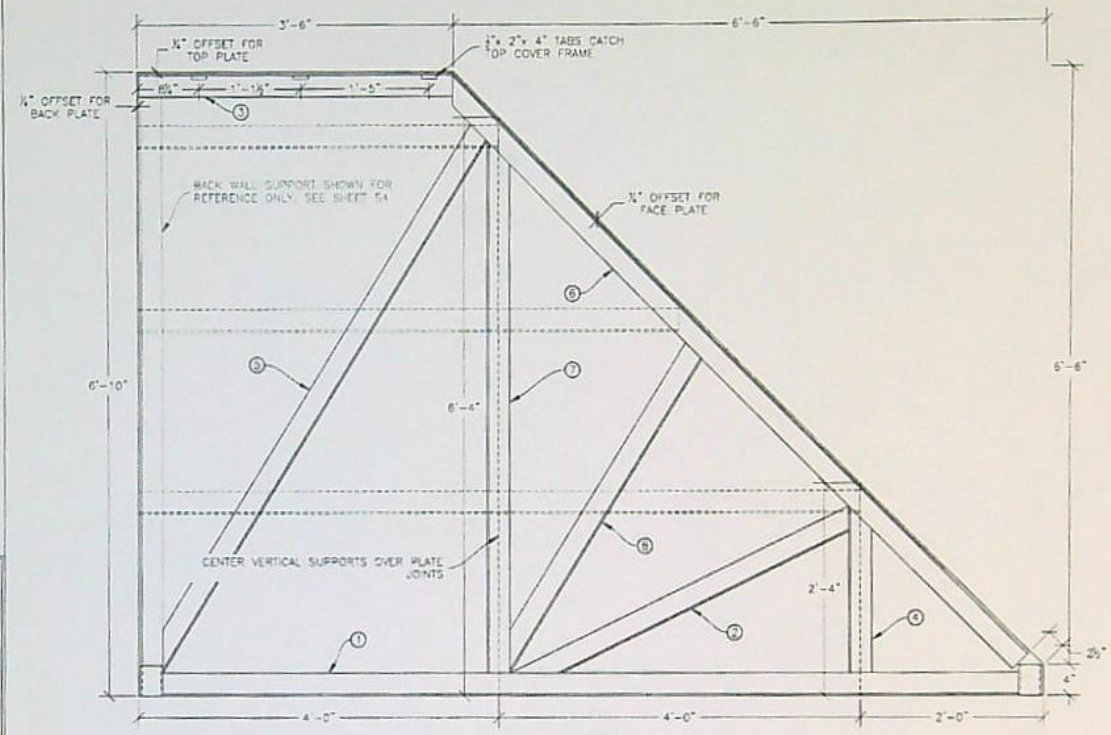
1/S3 SIDE ASSEMBLY SCALE: N.T.S.
ISOMETRIC VIEW



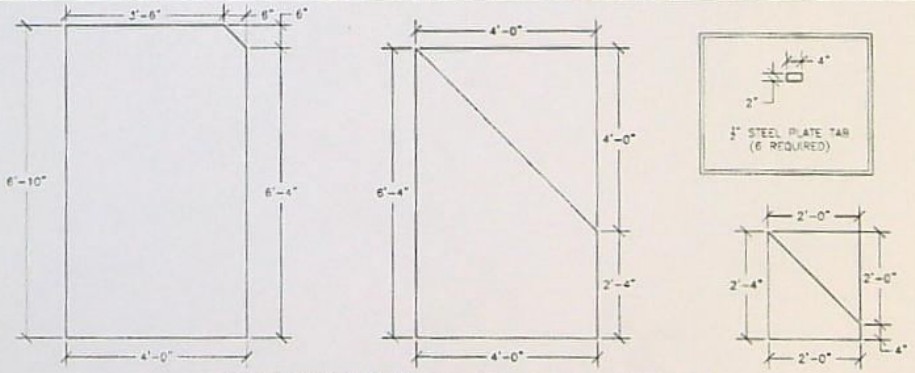
3/S3 SUPPORT MEMBERS SCALE: 1"=1'-0"

OUTSIDE ANGLES 10°, 8°, 6°, & 4° FOR SKIN FRICTION

1 EACH, 3"x 3"x ¼" ANGLE MIRROR FOR OPPOSITE SIDE



2/S3 SIDE PANEL LAYOUT SCALE: ½"=1'-0"
MIRROR OPPOSITE SIDE



4/S3 PANEL MEMBERS SCALE: ¾"=1'-0"

CUT FROM ¼" STEEL PLATE
MIRROR FOR OPPOSITE SIDE

REGISTERED PROFESSIONAL ENGINEER
70648
OREGON
MAY 21, 2019
SCOTT JANSSEN
EXPIRES: 6/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE (503) 947-6234 FAX (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
SIDE WALLS

DATE: 5-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. 3-17-0008
SHEET S3
OF

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JUL 08 2021
OWRD

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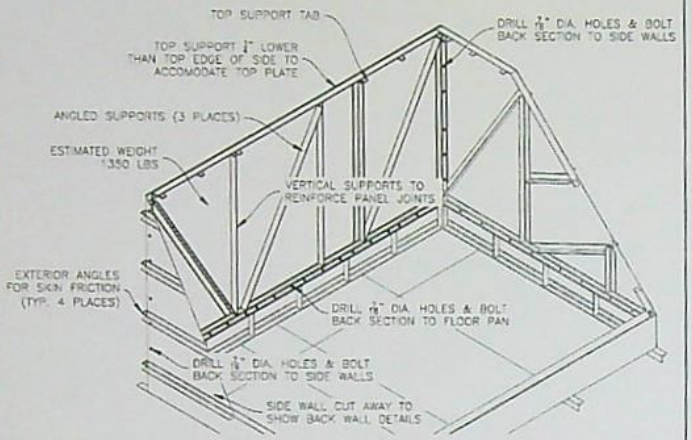
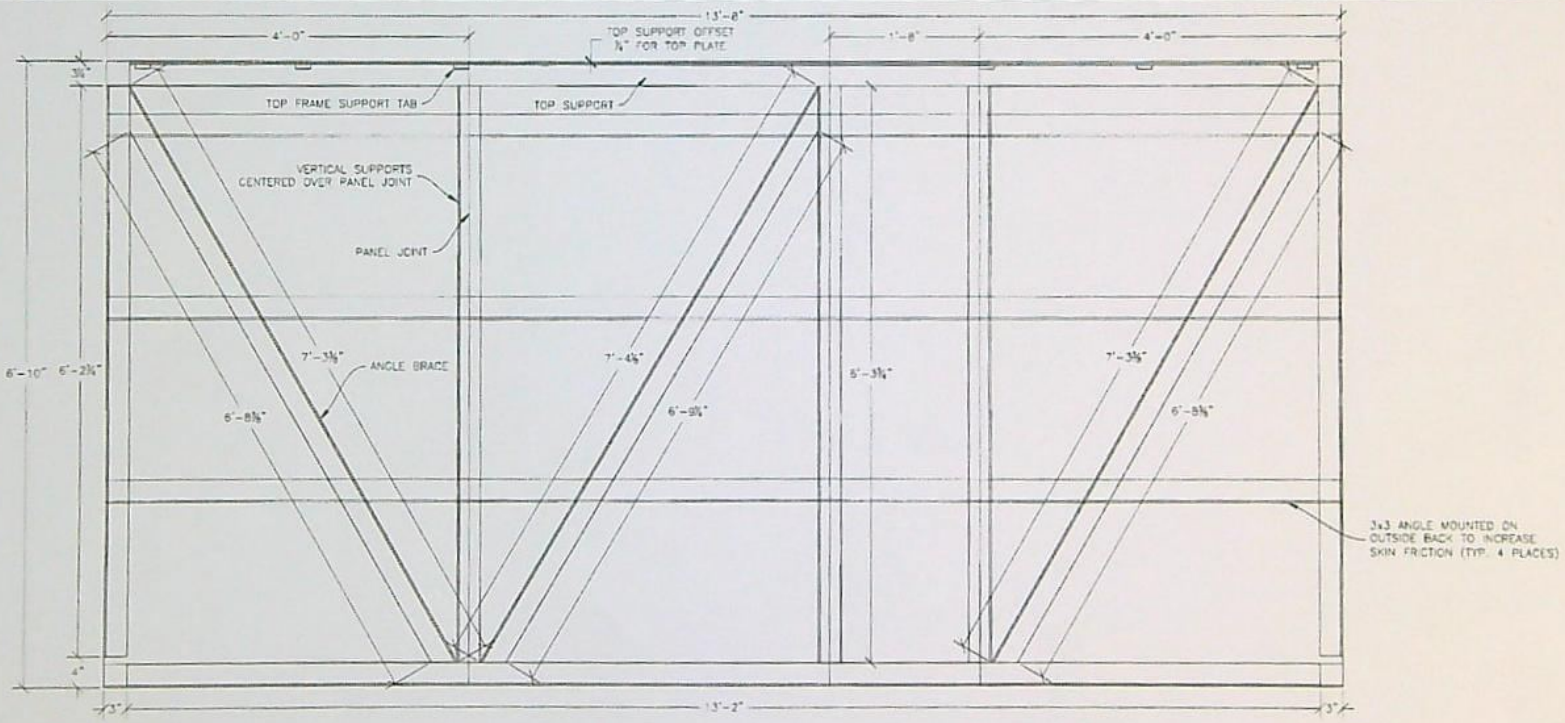
9:21:10 AM - 11X17 PLOTTED AT HALF SCALE



1/S4 BACK ASSEMBLY SCALE: N.T.S.
ISOMETRIC VIEW

MATERIALS:
3 @ 6'-10" x 4'-0" PANELS
1 @ 6'-10" x 1'-8" PANEL
1 @ 13'-2" 3x3x1/4" TOP SUPPORT
1 @ 13'-2" 3x3x1/4" BOTTOM SUPPORT
2 @ 6'-2 1/2" 3x3x1/4" SIDE SUPPORTS
3 @ 6'-3 1/2" 3x3x1/4" VERTICAL SUPPORTS
2 @ 7'-3 1/2" 3x3x1/4" ANGLE BRACES
1 @ 7'-4 1/2" 3x3x1/4" ANGLE BRACE
4 @ 13'-8" 3x3x1/4" EXTERIOR ANGLES
6 @ 2" x 4" x 1/4" TOP SUPPORT TABS

NOTE: LADDER CONNECTS TO BACK WALL. SEE SHEET S10 FOR DETAILS



REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JAMISON
EXPIRES: 06/31/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6234 FAX: (503) 947-6203

OREGON Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
BACK WALL

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S4
OF

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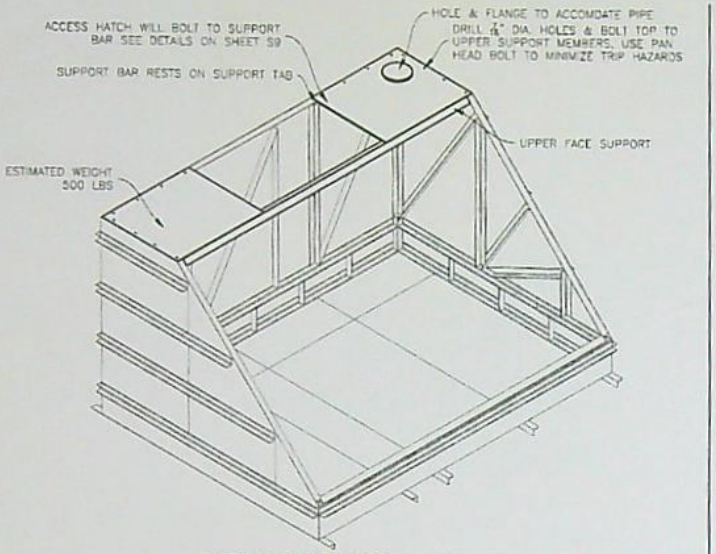
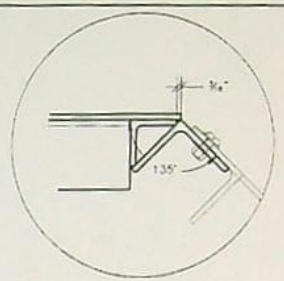
JUL 08 2021
OWRD

X:\PROJECT FOLDERS\BASIN 17 - SOUTH COAST\S-17-0008 OREGON CRANBERRY FARMERS #WINDHURST\DESIGN\AUTOCAD FILES\BOX MODIFICATIONS.DWG - Wednesday, May 6, 2020 9:21:16 AM - 11X17 PLOTTED AT HALF SCALE

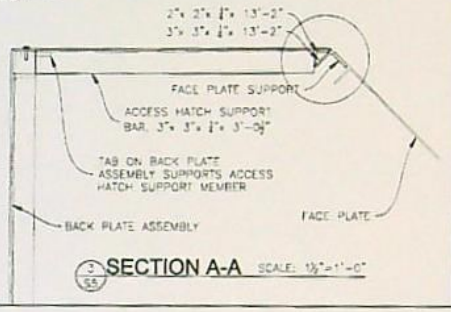


1/S5 TOP ASSEMBLY SCALE: N.T.S.
ISOMETRIC VIEW

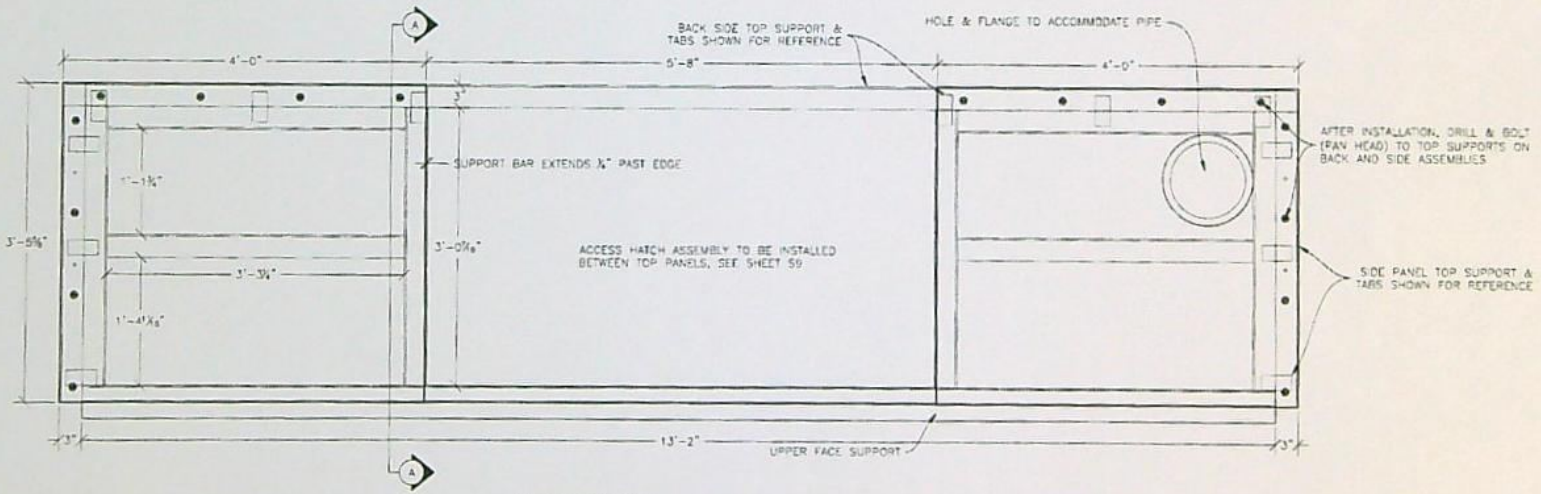
MATERIALS
1 @ 4'-0"x 4'-0" PANEL
1 @ 4'-0"x 4'-0" PANEL WITH PIPE HOLE
1 FLANGE FOR PIPE CONNECTION
4 @ 3'-0⅝" 3x3x¼" ACCESS HATCH SUPPORT
4 @ 3'-3¼" 3x3x¼" ACCESS HATCH SUPPORT
1 @ 13'-2" 2x2x¼" FACE PLATE SUPPORT
1 @ 13'-2" 3x3x¼" FACE PLATE SUPPORT



4/S5 FACE PLATE SUPPORT SCALE: ½"=1'-0"
DETAIL



3/S5 SECTION A-A SCALE: 1½"=1'-0"



2/S5 TOP PANELS SCALE: 1½"=1'-0"
TOP VIEW

REGISTERED PROFESSIONAL ENGINEER
OREGON
JULY 21, 2016
SCOTT JAMESON
EXPIRES: 06/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH PASSAGE AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TOP COVER

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S5
OF

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JUL 08 2021
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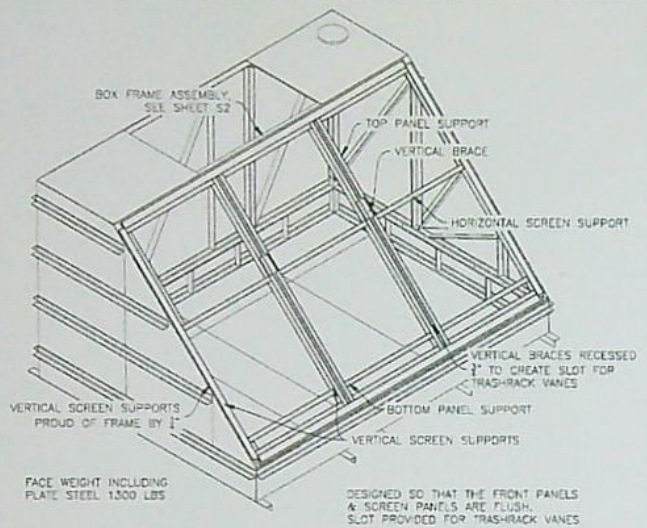
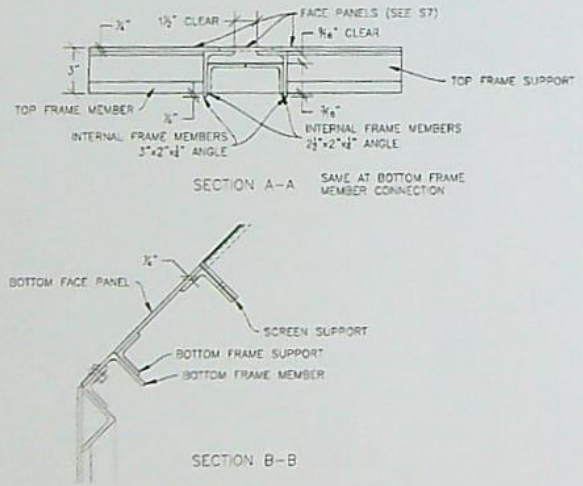
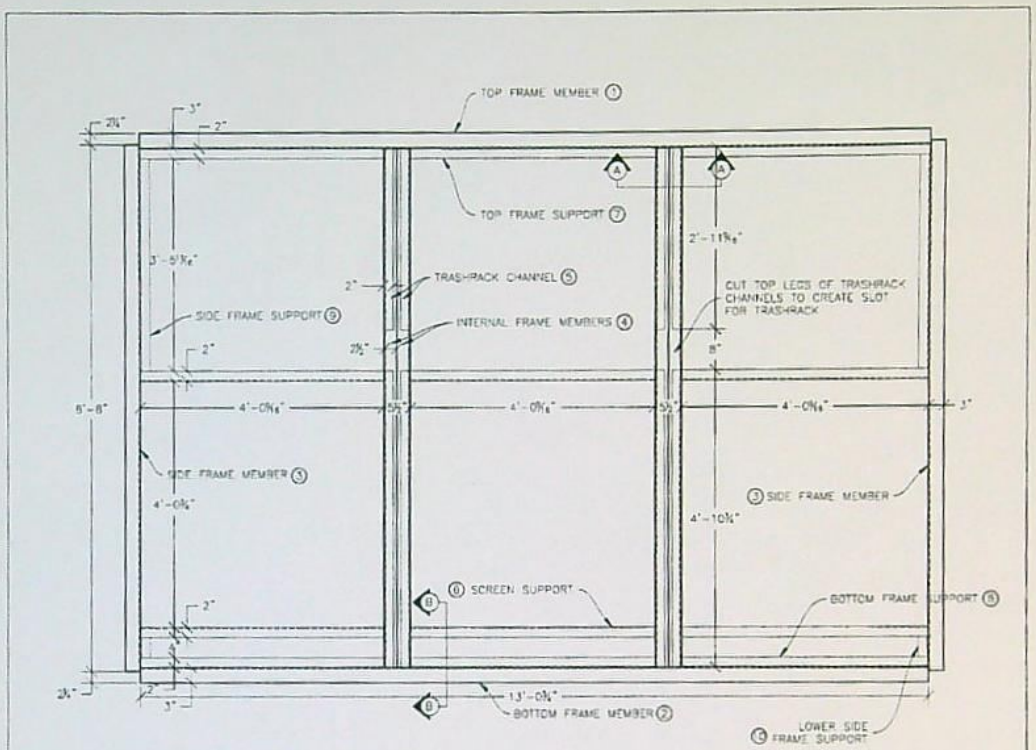


1/S6 FACE BRACING SCALE: N.T.S.
ISOMETRIC VIEW



2/S6 SECTION VIEWS SCALE: 3"=1'-0"



2/S6 FACE BRACING LAYOUT SCALE: 1"=1'-0"
TOP VIEW

LABEL	DESCRIPTION	MATERIAL	LENGTH	NOTES
1	TOP FRAME MEMBER	3x3x¼"	13'-0⅛"	SEE DETAIL 4 ON SHEET S5
2	BOTTOM FRAME MEMBER	3x3x¼"	13'-0⅛"	SEE SECTION D-D ON SHEET S2
3	SIDE FRAME MEMBERS	3x3x¼"	5'-8"	2 REQUIRED, BOLT TO SIDE FRAME SUPPORTS
4	INTERNAL FRAME MEMBERS	2½x2x¼"	5'-0⅛"	4 REQUIRED, WELD TOGETHER & TO TOP AND BOTTOM FRAME MEMBERS
5	TRASHRACK CHANNEL MEMBERS	2x3x¼"	5'-0⅛"	4 REQUIRED, SEE SECTION A-A
6	SCREEN SUPPORTS	2x3x¼"	4'-0⅛"	6 REQUIRED, SEE SECTION B-B
7	TOP FRAME SUPPORT	2x2x¼"	4'-0⅛"	3 REQUIRED, ¼" LOWER THAN TOP FRAME, TO SUPPORT FACE PANEL
8	BOTTOM FRAME SUPPORT	2x2x¼"	4'-0⅛"	3 REQUIRED, SEE SECTION B-B
9	SIDE FRAME SUPPORT	2x2x¼"	5'-5⅛"	2 REQUIRED, ¼" LOWER THAN SIDE FRAME, TO SUPPORT FACE PANEL
10	LOWER SIDE FRAME SUPPORT	2x2x¼"	0'-4"	2 REQUIRED, ¼" LOWER THAN SIDE FRAME, TO SUPPORT FACE PANEL

¼" PLATE WELDED TO FACE BRACING, SEE SHEET S7 FOR PANEL DETAILS

AFTER ASSEMBLY, DRILL FRAME MEMBERS, FACE, AND SUPPORT MEMBERS (TOP, SIDES, & BOTTOM). BOLT USING PAN HEAD SCREWS, WASHERS, & NUT. PAN HEAD ON OUTSIDE FRONT FACE.

REGISTERED PROFESSIONAL ENGINEER
OREGON
MAY 21, 1976
SCOTT JANSSEN
EXPIRES: 06/31/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6234 FAX: (503) 947-6203

OREGON Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FACE BRACING

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S6
OF

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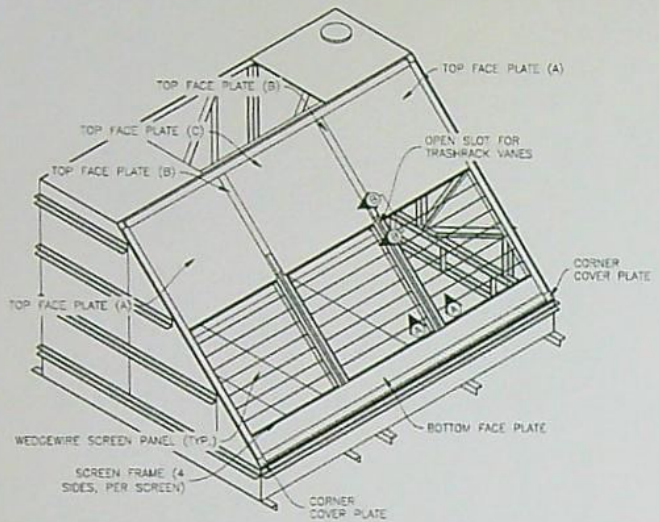
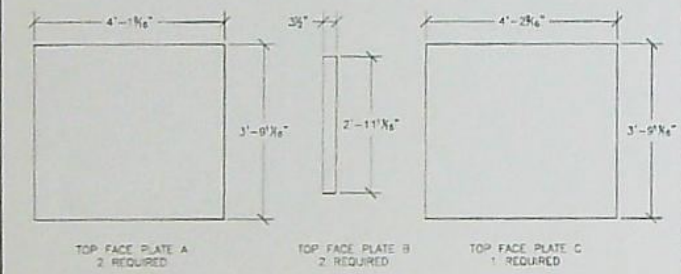
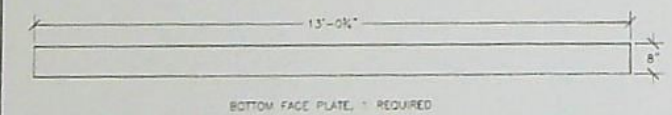
9:21:29 AM - 11X17 PLOTTED AT HALF SCALE

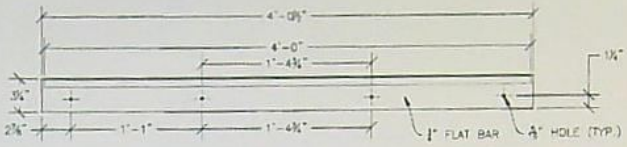


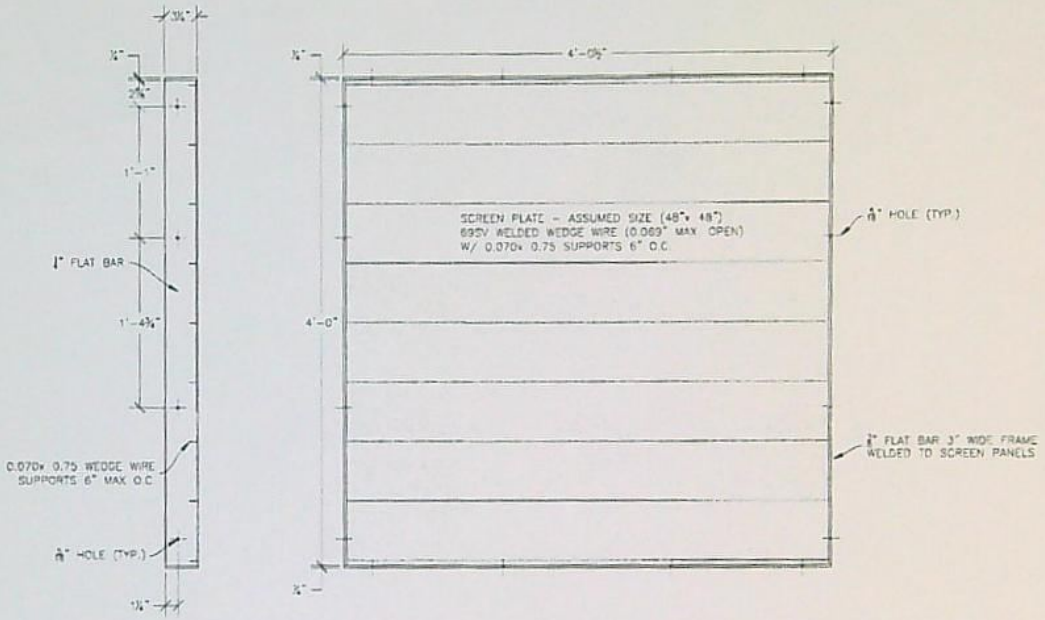
1/57 FACE PANELS & SCREEN ASSEMBLY SCALE: N.T.S.
ISOMETRIC

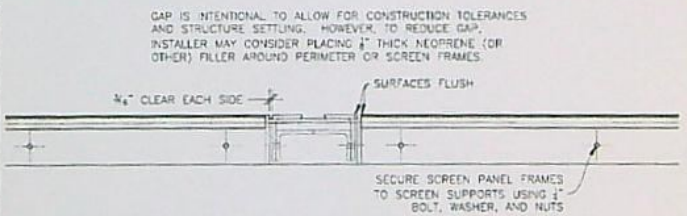




2/57 FACE PLATES SCALE: 3/4"=1'-0"
FRONT VIEW

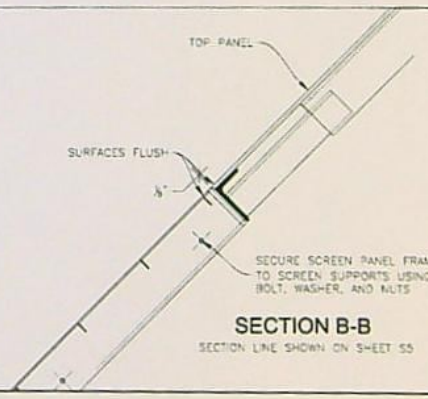






SECTION A-A
SECTION LINE SHOWN ON SHEET S5

4/57 SECTIONS SCALE: 3"=1'-0"



SECTION B-B
SECTION LINE SHOWN ON SHEET S5

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSEN
EXPIRES: 12/31/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6234 FAX: (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
FACE PANELS & SCREEN

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S7
OF

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JUL 08 2021
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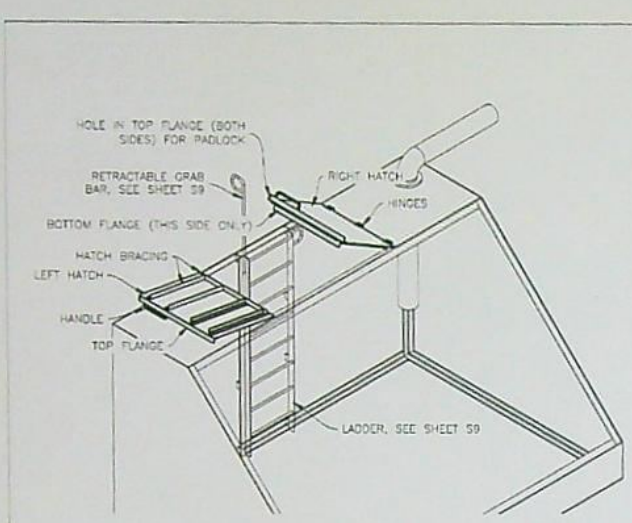

1/S8 ACCESS HATCH SCALE: N.T.S.
ISOMETRIC VIEW

MATERIALS LIST

2	¼" STEEL PLATE	2'-10" x 3'-5¾"
4	2x2x¼" ANGLE	2'-6½"
4	2x2x¼" ANGLE	2'-5⅜"
2	2x2x¼" ANGLE	3'-0"
1	3x3x¼" ANGLE	3'-0"
2	2x2x¼" ANGLE	3'-5¾" WITH HOLE FOR PADLOCK
2	HANDLES	½" DIA. ROUND BAR
6	HEAVY DUTY HINGES	

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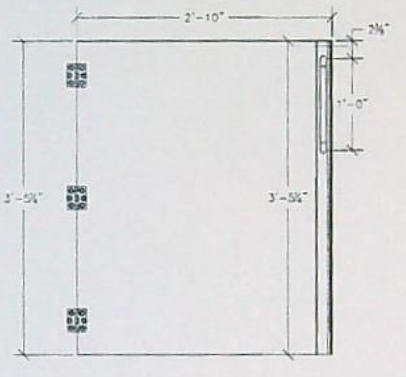
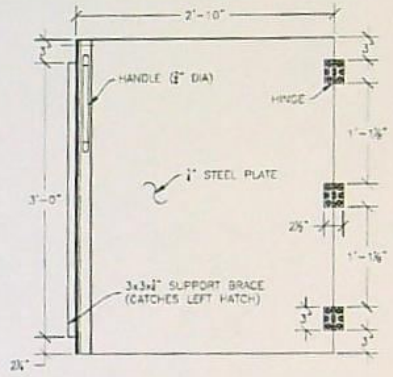
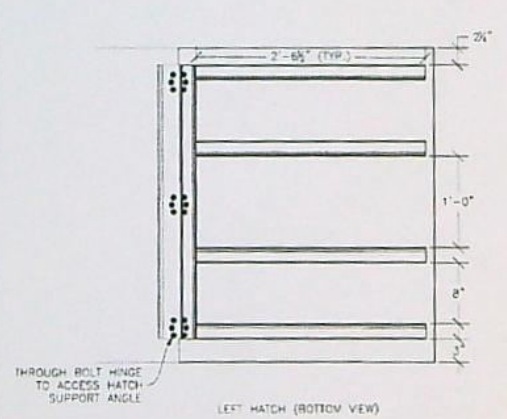
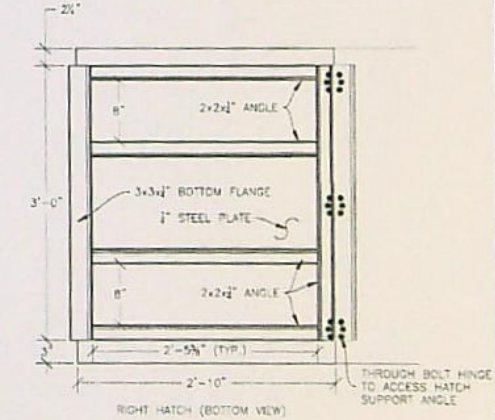








2/S8 HATCH DETAILS SCALE: 1½"=1'-0"

REGISTERED PROFESSIONAL ENGINEER OREGON SCOTT JANSSEN EXPIRES: 06/31/2021

Oregon
OREGON Fish & Wildlife
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

REV.	DATE	DESCRIPTION

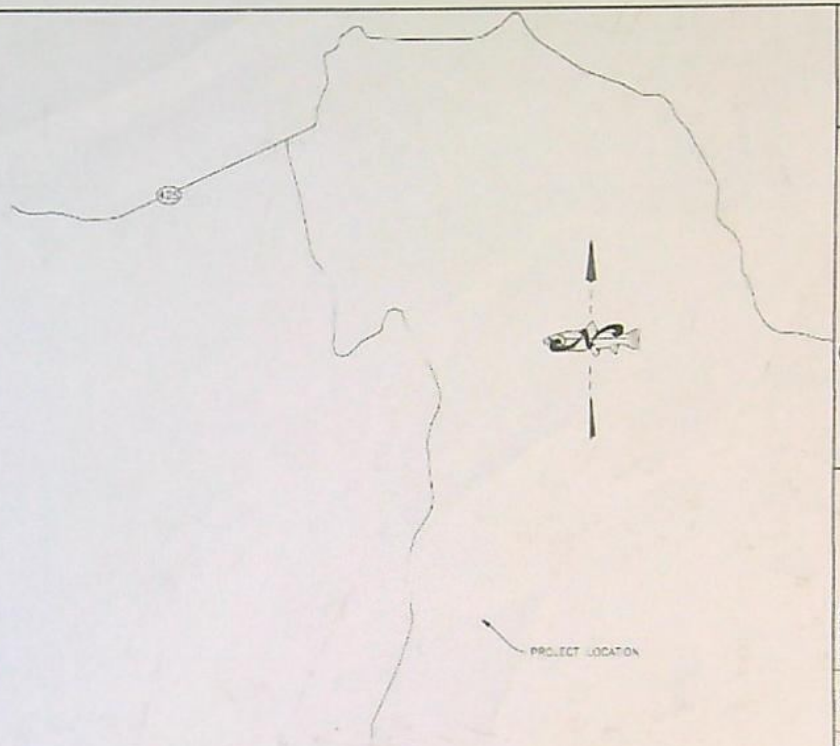
OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
ACCESS HATCH

DATE: 5-6-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S8
OF



1 G1 LOCATION MAP SCALE: N.T.S.



2 G1 VICINITY MAP SCALE: N.T.S.

Sheet List Table

SHEET NUMBER	SHEET TITLE
G1	TITLE SHEET
G2	SPECIFICATIONS 1 OF 2
G3	SPECIFICATIONS 2 OF 2
C1	VICINITY MAP
C2	EXISTING SITE PLAN
C3	PROPOSED SITE PLAN
C4	LAYOUT PLAN & PROFILE
C5	CROSS SECTIONS
S1	SUMP BOX
S2	FLOOR PAN
S3	SIDE WALLS
S4	BACK WALL
S5	TOP COVER
S6	FACE BRACING
S7	FACE PANELS & SCREEN
S8	ACCESS HATCH
S9	LADDER
S10	TRASHRACK

OREGON CRANBERRY FARMERS, BILL CREEK

OWNER
JOHN ROTH
PO BOX 362
BANDON, OR 97411

OREGON CRANBERRY FAMERS – WINDHURST
PROJECT # S-17-0005
LAT 43.08678° LONG -124.34739°
WATER RIGHT 2.75 CFS

SCREENS INFORMATION
PUMP FROM SUMP BOX EQUIPPED WITH WEDGEWIRE PASSIVE SCREEN 12'x 4' (48SF)

ENGINEER
OREGON DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL RD. SE
SALEM OR, 97302

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE (503) 947-6224 FAX (503) 947-6203

OREGON Fish & Wildlife

REV	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TITLE SHEET

DATE: 4/29/2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-15-0127
SHEET G1
OF

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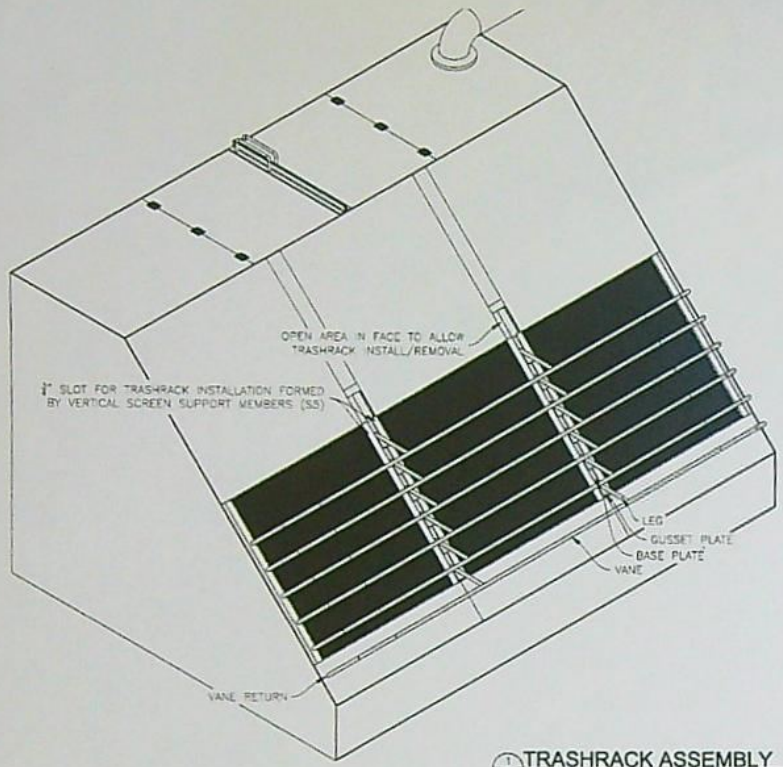
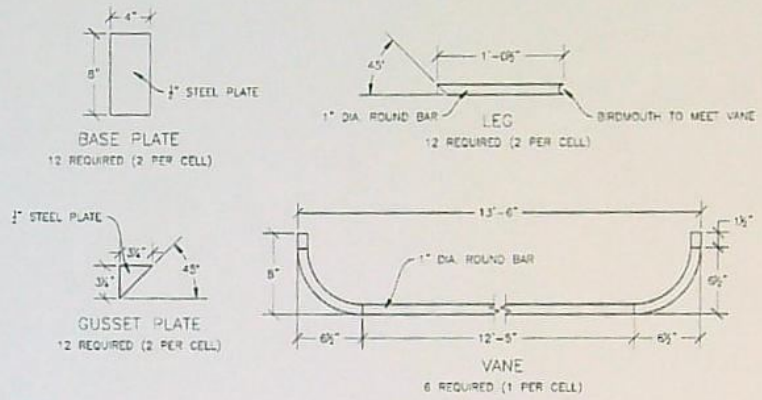
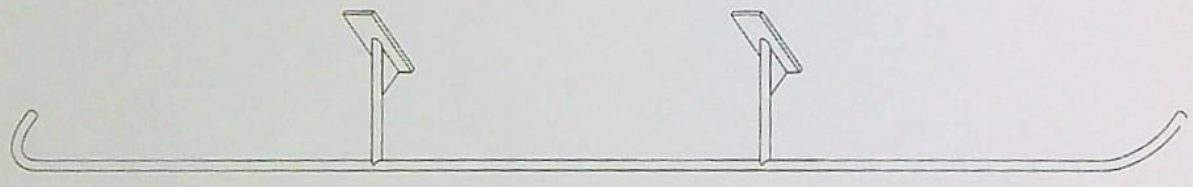


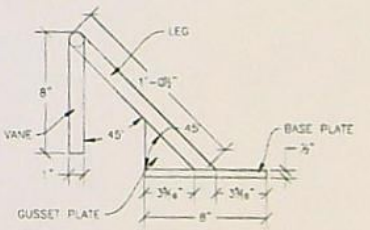
1/S10 TRASHRACK ASSEMBLY SCALE: N.T.S.
SOMETRIC VIEW



3/S10 TRASHRACK COMPONENTS SCALE: 2"=1'-0"



2/S10 TRASHRACK CELL SCALE: 2"=1'-0"
SOMETRIC VIEW
6 REQUIRED



4/S10 TRASHRACK CELL SCALE: 3"=1'-0"
END VIEW

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REGISTERED PROFESSIONAL ENGINEER
OREGON
JULY 21, 2014
SCOTT JANSSON
EXPIRES: 6/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

OREGON Fish & Wildlife

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
TRASHRACK

DATE: 5-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET S10
OF

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JUL 08 2021
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1/C1 VICINITY MAP SCALE: 1"=20'-0"

REGISTERED PROFESSIONAL ENGINEER
OREGON
SCOTT JANSSON
EXPIRES: 06/30/2021

Oregon
DEPARTMENT OF FISH AND WILDLIFE
FISH DIVISION
FISH SCREENING AND PASSAGE PROGRAM
4034 FAIRVIEW INDUSTRIAL DR. S.E.
SALEM, OREGON 97302
PHONE: (503) 947-6224 FAX: (503) 947-6203

REV.	DATE	DESCRIPTION

OREGON CRANBERRY FARMERS
BILL CREEK
COOS COUNTY
VICINITY MAP

DATE: 5-8-2020
DESIGN BY: STJ
DRAWN BY: STJ
CHECKED BY:
NOTES:

FILE NO. S-17-0008
SHEET C1
OF

X:\PROJECT FOLDERS\BASIN 17 - SOUTH COAST\S-17-0008 OREGON CRANBERRY FARMERS WATERRIGHT\DESIGN\AUTOCAD FILES\OCF_C-SHEET1A.DWG - Wednesday, May 6, 2020 8:58:17 AM - 11X17 PLOTTED AT 1=40 SCALE

R&S

EXHIBIT C - APPLICATION

Fish Screening and Passage Program
Oregon Department of Fish and Wildlife

Cost Share Grant Application

ODFW USE ONLY	Title: Oregon Cranberry Farmers - Windhurst		Project #: S-17-0008
Project Type: S	Activity: Replacement	Amount: $65,037.20	Date received:

APPLICANT- Fill In	CONTACT INFORMATION	
APPLICANT, CO-APPLICANT, PROJECT CONTACT, WATER USER, LAND OWNER, DIVERSION OWNER	Name: Roth, John	Work phone: 541-347-2437
	Title:	Home phone:
	Business Name: Bandon Cranberry Water Control District	Cell/Other: 541-297-6292
	Mailing Address: 555 Hwy 101	Fax:
	City/State/Zip: Bandon, OR 97411	Email:

Applicant- Fill In	DIVERSION DETAILS	
Diversion Name: Oregon Cranberry Growers - Windhurst		Diversion Flow Relative to Stream Flow (%): 50.000
GPS Based Diversion Location		
Latitide: 43.08678		Longitude: -124.34739
Digitally Derived Diversion Location		
Latitide: 43.08676	Longitude: -124.34725	County: Coos
Basin: South Coast	District: Umpqua	Stream: Bill Creek
Quarter:	House District: 1	Senate District: 1
HUC: 17100305	Watershed Council Area: Coquille Watershed Association	
LLID: 1243369431063	Tributary Of: Bear Creek	
Notes:		

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JUL 08 2021
OWRD

Water Rights

Water Permit Number	Water Permit Date	Water Certificate Number	Water Certificate Date	Water Right CFS	Comments
S-53703	6/30/1988			2.75	
Total Water Right CFS:				2.75	

Water Use

Water Use	Water Period	Description
Irrigation	Jan, Feb, Mar, Apr, May, Nov, Dec	POD is used during winter months to supply reservoir

Applicant- Fill In	PROJECT INFORMATION
Summary: A screened vault will be installed to replace a failed pump screen on Bill Creek, near Bandon in Coos County.	
Purpose: ODFW cost shared a Sure-Flo screen for a pump intake that is only used during the winter months. The screen failed almost immediately due to the high flows and large amounts of debris that the site regularly experiences. Rather than continuing to deal with the ongoing damage to the intake pipe and screen, the preferred solution is to install a screened vault within the bank, which will be much less susceptible to high-flow damage. The design has already been completed by ODFW. ODFW considers the stream to be a high priority for screening due to the presence of listed coho. Chinook, cutthroat, steelhead and lamprey are also	

present.
Estimated TimeLines: The screen shop plans to purchase the materials this spring, and do the fabrication as time allows. Late summer 2021 is the preferred time for installation, but meeting that goal will depend on how well the shop's other scheduled projects go.

Requesting ODFW Engineering Assistance?: Yes	Stream Miles Made Accessible: 0
GPS Based Project Location	
Latitide: 43.08675	Longitude: -124.34724

Digitally Derived Project Location		
Latitide: 43.08676	Longitude: -124.34725	County: Coos
Basin: South Coast	District: Umpqua	Stream: Bill Creek
Quarter:	House District: 1	Senate District: 1
HUC: 17100305	Watershed Council Area: Coquille Watershed Association	
LLID: 1243369431063	Tributary Of: Bear Creek	
Notes:		

ODFW Use Only **SPECIES**
Project yet to be reviewed by ODFW Team.

Screen Priority Points		
Diversion flow relative to stream flow (%): 50.000	Diversions Screened in stream (%): 20% - 40%	Amount of Water Screened: 2.75 (cfs)
Fish Species Status:	Fish Migration:	Fish Numbers:
Habitat Quality:	Basin Priority:	Total Points: 0
Screen Details		
Diversion Type: Pump	Fish Screen Brand: na	Fish Screen Model: na
Installation: Pre-fabricated	Cleaning System: Other	Orientation: N/A
Additional Information: Screen will be a pump vault installed in the bank, with a passive panel screen (3 panels, 4ft x 4ft ea), and trashrack.		

Comments/Recommendations	
District Biologist	
Field Coordinator	
Screen Shop Manager	
State Coordinator	
Program Manager	

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Oregon
Kate Brown, Governor

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

August 27, 2021

Windhurst Road Watering Corp

P.O. Box 1832

Bandon, OR 97411

Reference: File: Application R-69708 (Permit R-12928)

On August 23, 2021, the Department received check number 1787, in the amount of $110 to complete the payment of the fee for an Extension of Time for Permit R-12928. The check was not signed, and therefore must be returned.

The Department will hold the Application for Extension of Time until September 17, 2021, to provide an opportunity to resubmit the additional fee.

Additionally, the Department will hold off processing the Application for Extension of Time for Permit S-53703, until the receipt of the remaining fees for R-12928.

If you have any further questions concerning this matter, please feel free to contact me by telephone at 503-979-3213.

Sincerely,

Jeffrey Pierceall

Extensions Specialist

Oregon
Kate Brown, Governor

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

October 5, 2021

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #:** R-69708 **(Permit** R-12928**).** Your application will be reviewed in the future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Jeffrey Pierceall at (503) 986-0802. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's website at: **www.wrd.state.or.us.**

Oregon
Kate Brown, Governor

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

January 29, 2021

Windhurst Road Watering Corp
P.O. Box 1832
Bandon, OR 97411

Reference: File: Application R-69708 (Permit R-12928)

To Whom it May Concern:

On January 27, 2021, the Department received your check for $670 and an Application for Extension of Time for Permit R-12928.

Upon review of the extension request, and based on the information submitted, it does not appear that an Extension of Time is necessary under this permit. Permit R-12928 authorizes the storage of up 614.0 acre-feet of water in a total of 23 reservoirs. The Application for Extension of Time identifies that all 23 reservoirs have been constructed and the total volume of 614.0 acre-feet has been stored.

Additionally, the Application for Extension of Time must be signed by a permit holder of record. The Application submitted does not include any signature.

The Department, therefore, is returning the check and the Application for Extension of Time for Permit G-15354.

If you have any further questions concerning this matter, please feel free to contact me by telephone at 503-986-0802.

Sincerely,

Jeffrey Pierceall
Extensions Specialist

Application for Extension of Time for a Water Right Permit (NON-Municipal/NON Quasi-Municipal water Use)

OREGON WATER RESOURCES DEPARTMENT

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

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Criteria for a Permit Extension of Time

The Department can accept requests for an extension of time on permits to (1) complete construction, and/or to (2) apply water to beneficial use.

In order to approve a permit extension request the Department must be able to find:

1) **Construction has begun:**

   A. **For Groundwater Permits**
   Construction of the well(s), *authorized by the permit*, began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

   B. **For Surface Water or Reservoir Permits**
   Construction of the water system began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

The Department will also confirm that:

2) If required, a fish screen, fish passage or fish by-pass device was installed before or prior to diversion of any water. An exception to the need to confirm installation prior to diversion of any water would be a waiver submitted to the Department from ODFW stating that a fish screen, fish passage or fish by-pass device was not required, provided your permit allows for a waiver.

If you have questions, please call the Department at (503)-986-0900 and ask to speak with a permit extension specialist.

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OREGON WATER RESOURCES DEPARTMENT

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

A separate extension application must be submitted for each permit as per OAR 690-315-0020(2).

I, Windhurst Road Watering Corp.
NAME OF PERMIT HOLDER *[OAR 690-315-0020(1) and (3)(a)]*

PO Box 1832 | Bandon | OR | 97411
ADDRESS | CITY | STATE | ZIP

541-297-6292 | jkeranbenius@yahoo.com
PHONE | E-MAIL ADDRESS

the permit holder of: Application Number R- 69708

Permit Number R-12928
[OAR 690-315-0020(3)(b)]

do hereby request that the date by which the water development will be completed and water put to full beneficial use, which time now expires on Month: October **Day:** 01 **Year:** 2019 **, be extended to October 1,** 2029 **,** *[OAR 690-315-0020(3)(i)]*

I am the permit holder, and may apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

Signature _____ **Date** _____

Printed Name _____ **Title** _____

The agent below is authorized to represent the applicant in all matters relating to THIS application. _____
Permit Holder Initials

Authorized Agent (Print Agent Name) _____ **Agent contact** _____

Before submitting your Application for Extension of Time, make sure the following items are included:

- This completed Application for Extension of Time.
- Statutory fee of $670
- Signature page (Second page of this Application for Extension of Time).
- Letter granting an agent authority to act on behalf of the permit holder (*if applicable*)
- All supporting documentation and/or evidence referenced in the Application for Extension of Time. (ODFW Fish screen approval or waiver, contract for stored water, etc)

MAIL COMPLETED APPLICATION
along with the Supporting documents and/ or evidence and correct fee to:

Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

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GENERAL TIPS:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form.** The correct form is APPLICATION FOR EXTENSION OF TIME FOR MUNICIPAL AND QUASI-MUNICIPAL WATER USE PERMITS.

- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.

- A separate APPLICATION FOR EXTENSION OF TIME must be submitted for each permit. OAR 690-315-0020(2).

- Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at the State of Oregon, Secretary of State Website. To be granted an extension of time, the Department must make four specific findings; 1) the application is complete, 2) construction of the water system began, 3) there is good cause, and 4) the project can be completed within the time being requested. If the Department cannot make all four findings, the extension of time cannot be approved.

- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 690-315-0020(3)(n).

- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights Services Division.

- An Application for an Extension of Time will be reviewed for completeness. A response is required for each item contained in the application. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- **The water right permit.** If needed, a copy of the water right permit can be downloaded from the Department's Website, or, a copy of the permit may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).

- **Previous Applications and Orders.** Copies of previous applications and orders that may inform the completion of the Application for Extension of Time, if available, may be downloaded from the Department's Website. **NOTE: If the document requested is not available on the Department's website, you may be required to submit a Public Record Request.**

- **Documentation which demonstrates compliance with permit conditions** (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

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Questions to complete this application for an Extension of Time
Please see the instruction sheet to help you answer these items.

1. **Beginning Construction within required deadlines.** OAR 690-315-0020(3)(d)

For Groundwater Permits

Has construction of the point of appropriation (well) authorized under this permit begun?
☐ Yes ☐ No

Date construction began Month: _____ **Day:** _____ **Year:** _____

Details of construction and attach documentation:

For Surface/Reservoir Permit

Has construction of the water system begun? ☑ Yes ☐ No

Date construction began Month: _____ **Day:** 09/06 **Year:** 1988

Details of construction and attach documentation: 421 acre ft. reservoir built and completed. The pump station on Bills Creek is built and in operation. All pipe lines, water meters and staff gauges are in place.

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OAR 690-315-0020(3)(A)(e)(A)

2a. Permits typically contain standard or special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column are contained within it. Using the extra row labeled "other" to specify any other additional conditions included in the permit, or specified in a final order approving a permit amendment or prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check "Yes" if you have completed or met the permit condition. Check "No" if the condition is not yet satisfied. In the 4th column, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation. Note: a pump test condition does not need to be addressed here however; you must submit the results of the test to the Department for approval prior to certification.

CHART-A

Permit Conditions in this Permit		Have Completed or Met?	Date satisfied/ or will be satisfied
Checkbox	Ground water Check those included on this permit		
☐	Installation of a meter/totalizing flow meter	☐ Yes ☐ No	
☐	Submittal of annual water usage report	☐ Yes ☐ No	
☐	Submittal of initial static water level measurement	☐ Yes ☐ No	
☐	Submittal of annual static water level measurements in the month required	☐ Yes ☐ No	
☐	Submittal of Seven consecutive static water level measurements in the month required	☐ Yes ☐ No	
☐	Special well construction standards	☐ Yes ☐ No	
☐	Submittal of a monitoring plan	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
	Surface Water or Reservoir		
☐	Installation of a meter/ totalizing flow meter	☑ Yes ☐ No	
☐	Submittal of annual water use report	☑ Yes ☐ No	
☐	Installation of a fish screen	☑ Yes ☐ No	
☐	Installation of a fish by-pass device	☐ Yes ☑ No	
☐	Installation of a fish passage	☑ Yes ☐ No	
☐	Installation of an outlet gate/pipe/ conduit	☑ Yes ☐ No	
☐	Submittal of a letter from ODFW that fish screen, fish by-pass device, and or fish passage is not required	☑ Yes ☐ No	
☐	Submit as-built plans and specification	☑ Yes ☐ No	
☐	Submittal of a letter from an engineer prior to storage	☑ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	

2b. If you have identified that you have NOT complied with Permit conditions, explain the reasons why and indicate a date certain, when you will be in compliance.

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[OAR 690-315-0020(3)(e)]

3. Provide evidence of physical work made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B); and if applicable, within the time period of the most recent extension granted (CHART-C). CHART-B (below) must be completed for all Application for Extension of Time requests. *Use chronological order.* Itemize each work item, and do not combine multiple work actions in one area. (Planning, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land, or planting crops *is not considered work in the development of the water system. **Work accomplished under other water rights may not be considered work under this permit.***)

CHART-B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED *List any work done before the permit was issued – eg. well drilled.*	COST*
	See Attachment B	$1,600,000
DATE	**WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED *and* PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER** *List work/actions done during the permitted time period.*	**COST***
10/10/2000	Date the permit was signed - find date above signature on last page of permit.	
10/10/2001	Permit specified "Actual Construction Work" shall begin	
2001	Install Pump, electrical & valves for Windmist Res	$12,050.00
2001	Partial Excavation of Haga Res #1	$4,000.00
	Date the permit specified complete application of water to the use shall be made- all permits contain this date.	
DATE	**WORK ACCOMPLISHED AFTER the date the permit specified complete application of water, and prior to any previous extension order** *COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR AN EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.*	**COST***
2014-2019	Maniche - Extension to 50% of ponds to finish	$10,000.00
2014-2019	Schell - Install Staff Gauges after 2014, Harvest Season, Enlarge Res #1 and #2	$10,000.00
2014-2019	Haga - Install Staff Gauges after 2014, Harvest Season, Complete Bee Sting Res.	$10,000.00
	Total Cost for Chart-B	$1,646,000

* If exact cost is not known, you must provide your best estimate.

4. If this is <u>not</u> your 1st Application for Extension of Time request, fill out CHART-C below in addition to CHART-B above. *Use chronological order.*

CHART-C

DATE	WORK ACCOMPLISHED <u>DURING</u> THE LAST EXTENSION PERIOD *List all work done during the last authorized extension period.*	COST*
	"Extended From" date for complete application of water used in the most recent Final Order on Extension of Time.	
2015	Install new water meters	$3,600.00
2017	Run water line to Bee Sting Res.	$6,500.00
2018	Dig Manicke pond	$7,800.00
2015	Install staff gauges for Haga and Scherer	$2,000.00
2015	Finish Bee Sting Res.	$10,000.00
	"Extended To" date for complete application of water resulting from the most recent Final Order on Extension of Time.	
DATE	**WORK ACCOMPLISHED <u>AFTER</u> THE LAST EXTENSION PERIOD EXPIRED** *List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.*	**COST***
01/20/20	Replace Bills Creek Pump	$5,000.00
02/05/20	Install pump protection	$3,900.00
	Total Cost of Chart-C	$38,800.00

* If exact cost is not known, you must provide your best estimate. [OAR 690-315-0020(3)(f)]

5. Cost of project to date: $1,684,800.00

(The total combined cost from CHART-B and CHART-C) [OAR 690-315-0020(f)]

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[OAR 690-315-0020(3)(e)(B)]

Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit made to date.

TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

6. For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

TIP: Report the rate in the same units of measurement as specified in the permit.

Maximum rate used to date = _____ cfs (cubic feet per second) *or,*

Maximum rate used to date = _____ gpm (gallons per minute) *or,*

Maximum volume of stored water used to date = _____ or,

Maximum volume stored annually to date = 614 AF

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7. For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. #27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment?	Maximum instantaneous rate used to date from this well - - under this permit only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	
Total instantaneous rate from all wells utilized under this permit								

8. Has a Permit Amendment Application been filed? Yes ☐ No ☑
If yes, identify Transfer No. T-_____

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[OAR 690-315-0020(3)(e)(C)]

9. For Irrigation and Nursery Use Permits Extensions

Provide the total number of acres irrigated to date under this permit.

a) Total acres irrigated to date: _____

b) List by year, the number of acres irrigated each year since permit issuance.

Year	Acres	Year	Acres	Year	Acres

c) Provide a copy of the application map identifying the acres irrigated.

d) Please specify the number of acres irrigated by each Point of Diversion/Point of Appropriation (POD/POA).

Haga (POD/POA)#_____ Acres 28 (POD/POA)#_____ Acres 26 Manicke

Richert (POD/POA)#_____ Acres 13.5 (POD/POA)#_____ Acres 20 Bills Creek

[OAR 690-315-0020(3)(i)(j)] Schuer 24

10. In the chart below provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2021 – 2028	Bills Creek LLC to construct and build 25 acres of cranberries, including a reservoir	$275,000.00
2021 – 2028	Haga family is planning further expansion of cranberry acreage	
Year: 2028	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
	Total Cost	$275,000.00

[OAR 690-315-0020(3)(g)]

11. Estimated remaining cost to complete the project: $275,000.00

(The total cost from CHART-E)

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[OAR 690-315-0020(3)(j)]

12. Provide a summary of your plan to complete construction, meeting all permit conditions and apply the water to beneficial use: *(List all tasks or steps needed to complete the project, the date when each task will be completed, and the cost associated with each task; attach additional pages if necessary.)* – All conditions of the permit(s) have been met. Bills Creek LLC is planning on expanding more acreage for cranberry production at an estimated cost of $175,000.00

[OAR 690-315-0020(3)(k)]

13. <u>Justify the time requested</u> to complete the project and/or apply the water to full beneficial use. *(Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.)* The project is designed to take longer to complete than the permit allows due to the size of acreage and owners involved. Ownership of properties included in the permit have changed hands. Increase in expenses and the fluctuating cost of cranberries have made the project more difficult to complete.

[OAR 690-315--0020(3)(l)]

14a. Will a denial of the extension result in undue hardship? *(Describe the hardship and the effects.)* There are multiple family farms covered under this permit and all of them use it. Total investment is approximately $2,000,000.00

14b. Are there any other reasonable alternatives that exist for meeting your water use needs? *(Explain in detail, consider other potential sources of water, and describe their feasibility)* NO

[OAR 690-315-0020(3)(h)

15. Was the delay in the timely completion of this water development project and/or timely application of water to full beneficial use caused by any additional government requirements, other than the conditions contained within the permit, which significantly delayed the completion and perfection of this right? *(Explain in detail, including how much time did this delay the project; list dates.)* Permit conditions have been met. Three of the original permit owners have since passed away and properties have come under new ownership.

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[OAR 690-315-0020(3)(h)

16. Describe any unforeseen events which contributed to the delay of completion of this project that you had no control over. *(Explain in detail what the unforeseen events were (i.e. health issues, natural disaster) and how much time was spent addressing the unforeseen events.)*

W. Scherer, F. Richert, and B. Haga have all passed on and all were original permit holders. Ownership of the Scherer Farm changed hands. Bills Creek LLC purchased said farm.

[OAR 690-315-0020(3)(h)]

17. Describe an additional reasons why the construction was not completed, and/or water was not beneficially used within permit time limits. *(Provide supporting information for the reason(s) that best fits your circumstances.)* Higher cost of expansion and development coupled with lower cranberry prices.

[OAR 690-315-0020(3)(m)(n)]

18. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time. The permit is very complex with several different owners. Each owner develops their acreage differently and each timeline for completion varies.

[OAR 690-315-0040(2)(f)]

19. Will the income or use of the water project provide a fair and reasonable return on your investment? *(Explain in detail)* Anytime a farmer invests time, income, and energy into developing their land there is an expected return on that investment. Cranberry farming is and has been a way of life for many in this area.

[OAR 690-315-0040(4)(d)]

20. Describe in detail if there are other economic interest, beyond those of the permit holder, which are dependent upon the completion of this project. *(Who will be effected and how?)*

None

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Attach permit, and documentation to the application

OREGON
WATER RESOURCES DEPARTMENT

RECEIVED
JAN 27 2021
OWRD
Date Received (Date Stamp Here)

OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Bandon Cranberry Water
PO Box 1832 Bandon, OR 97411

Transaction Type: Extension

Fees Received: $ 670.00

☐ Cash ☒ Check: Check No. 1729

Name(s) on Check: ~~Bandon~~ SAME

Address on Check: SAME

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,
OWRD Customer Service Staff

Submission received by: C. Middleton
(Name of OWRD staff)

Instructions for OWRD staff:

- Complete this Submission Receipt, and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (*i.e., the application or other document*).
- Date-stamp all pages. (*NOTE: Do not stamp check.*)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt information on the "*RECEIVED OVER THE COUNTER*" log sheet.
- Place the Submission Receipt with check/cash in the small top drawer (*i.e., "Fiscal Pick Up Drawer"*). Place the Submission Receipt with submission (*application/other document*) in the large bottom drawer.

OREGON
WATER RESOURCES DEPARTMENT

Received by OWRD
SEP 05 2024
Salem, OR

Date Received (Date Stamp Here)

OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Bandon Cranberry Water Control District
PO Box 1832 Bandon OR 97411

Transaction Type: Protest Permit R-12928

Fees Received: $ 480.00

☐ Cash ☑ Check: **Check No.** 1931

Name(s) on Check: Bandon Cranberry Water

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,
OWRD Customer Service Staff

Submission received by: Nick Reece
(Name of OWRD staff)

Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (*i.e., the application or other document*).
- Date-stamp all pages. (*NOTE: Do not stamp check.*)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt information on the "*RECEIVED OVER THE COUNTER*" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (*application/other document*) in the top drawer of filing cabinet.

OREGON
WATER RESOURCES DEPARTMENT

Received by OWRD
SEP 05 2024
Salem, OR

Date Received (Date Stamp Here)

OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Bandon Cranberry Water Control District
PO Box 1832 Bandon OR 97411

Transaction Type: Protest Permit R-12928

Fees Received: $ 480.00

☐ Cash ☑ Check; **Check No.** 1934

Name(s) on Check: Bandon Cranberry Water

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,
OWRD Customer Service Staff

Submission received by: Nick Reece
(Name of OWRD staff)

Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (*i.e., the application or other document*).
- Date-stamp all pages. (*NOTE: Do not stamp check.*)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt information on the "*RECEIVED OVER THE COUNTER*" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (*application/other document*) in the top drawer of filing cabinet.

Windhurst
A 1150.
R-12928
S-53703

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SEP 22 2014
SALEM, OR

BANDON CRANBERRY WATER CONTROL DISTRICT 1391

BANDON CRANBERRY WATER 1778

Oregon Dept Water Resources

Date	Type	Reference	Original Amt.	Balance Due	6/30/2021 Discount	Payment
6/30/2021	Bill		670.00	670.00		670.00
					Check Amount	670.00

RECEIVED

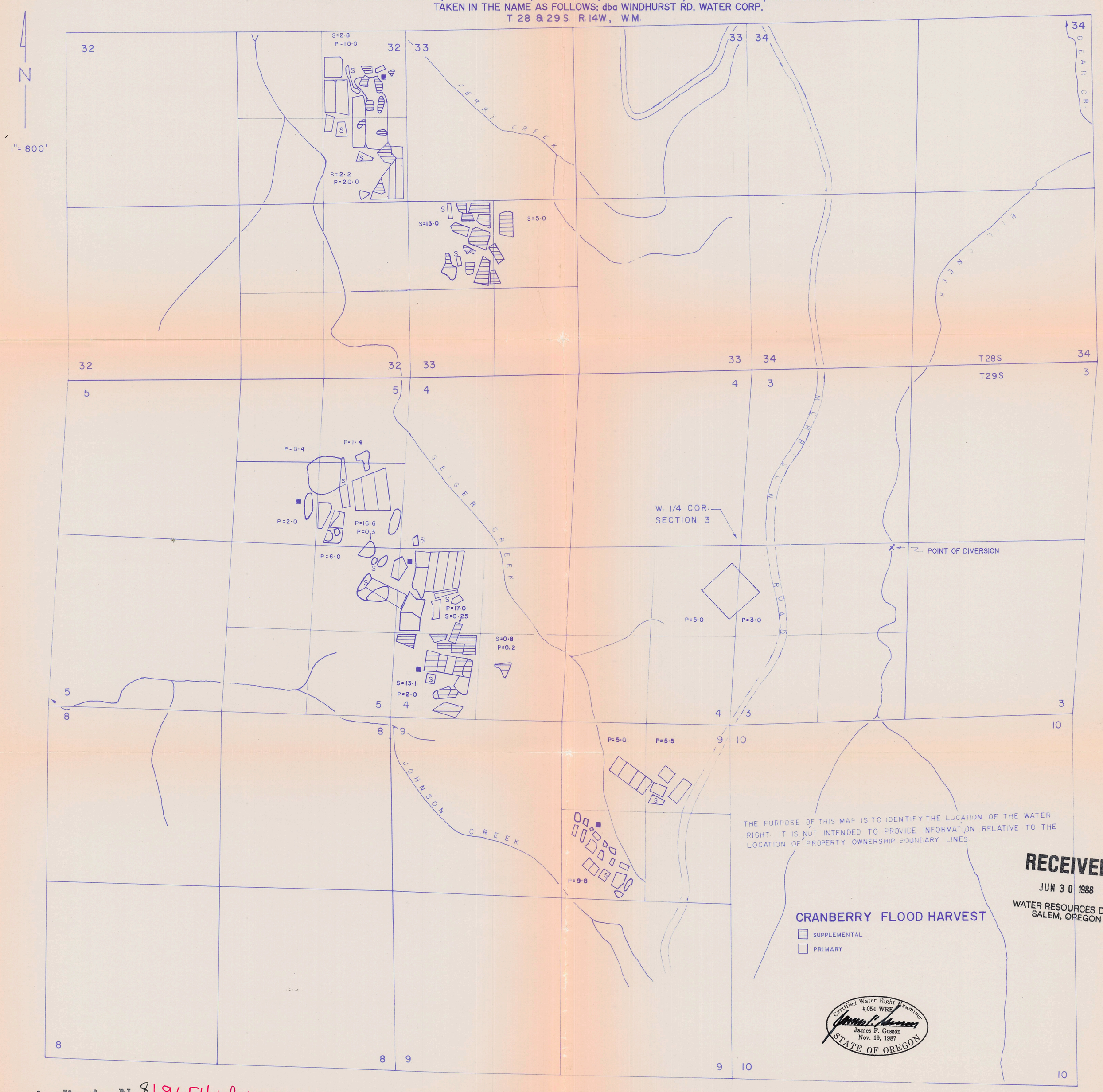
JUL 08 2021

OWRD

Windhurst Sub Accou Windhurst Water Rights Extension 2 of 2 670.00

APPLICATION MAP

FOR: W. R. SCHERER, C. G. SCHERER, R. O. HAGA, D. F. RICHERT, L. E. MEYER, & B. L. MANICKE
TAKEN IN THE NAME AS FOLLOWS: dba WINDHURST RD. WATER CORP.
T. 28 & 29 S. R. 14 W., W.M.



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 BOUNDARY LINES.

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JUN 30 1988
WATER RESOURCES DEPT.
SALEM, OREGON

CRANBERRY FLOOD HARVEST

SUPPLEMENTAL
PRIMARY

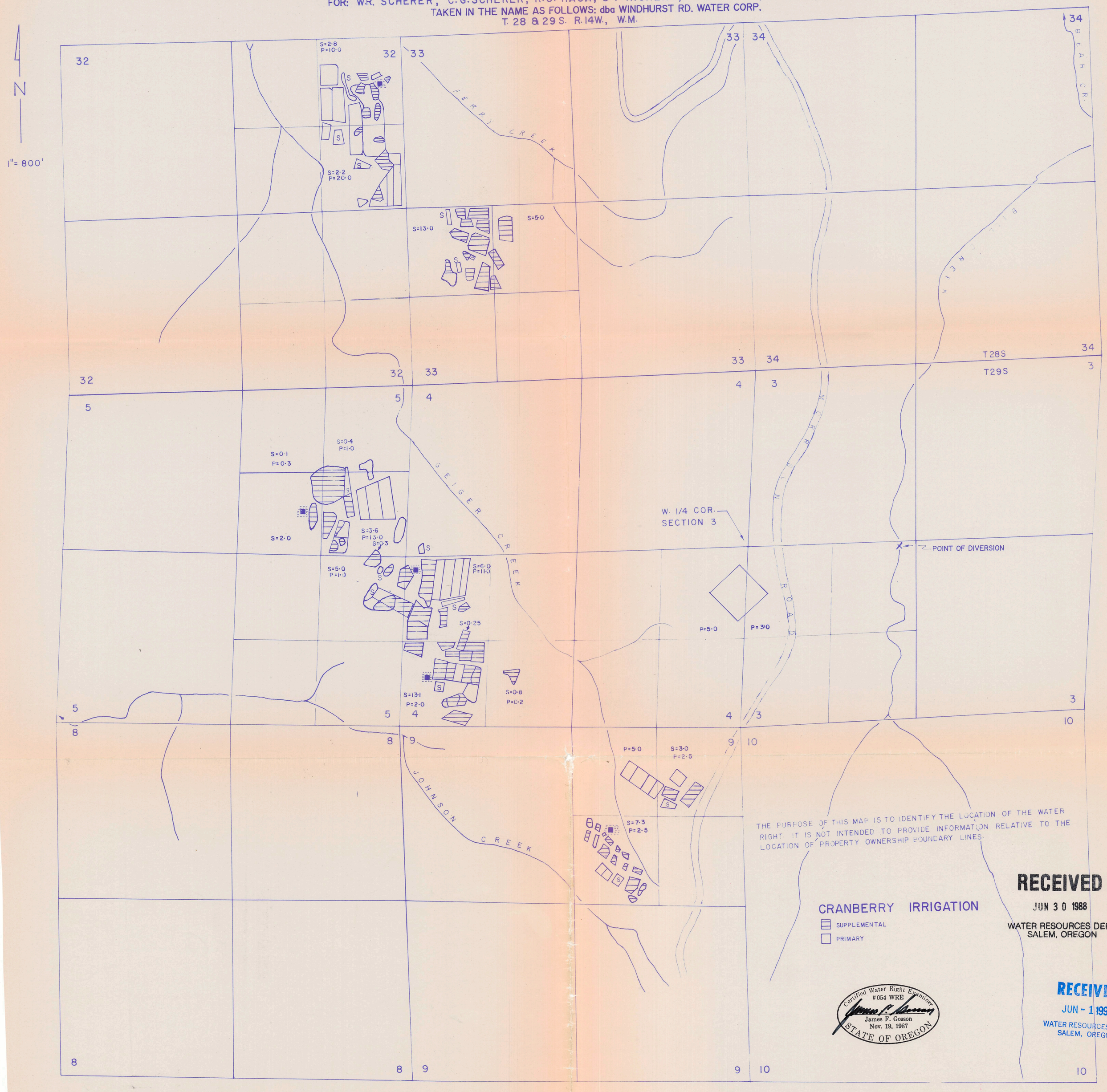
Certified Water Right Examiner
#054 WRE
James F. Gosson
Nov. 19, 1987
STATE OF OREGON

Application No. S69654 & R-69708
Permit No. S.53703 R-12928

P.O.D. S 40 FT. S. & 2340 FT. E. FROM THE WEST 1/4 CORNER OF SECTION 3.

APPLICATION MAP

FOR: W.R. SCHERER, C.G. SCHERER, R.O. HAGA, D.F. RICHERT, L.E. MEYER, & B.L. MANICKE
TAKEN IN THE NAME AS FOLLOWS: dba WINDHURST RD. WATER CORP.
T. 28 & 29 S. R. 14W., W.M.



RECEIVED
JUN 30 1988
WATER RESOURCES DEPT.
SALEM, OREGON

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

Application No. 69654 & R-69708
Permit No. 53703 - R12928

P.O.D. S 40 FT. S. & 2340 FT. E. FROM THE WEST 1/4 CORNER OF SECTION 3.

APPLICATION MAP

FOR: W. R. SCHERER, C. G. SCHERER, R. O. HAGA, D. F. RICHERT, L. E. MEYER, & B. L. MANICKE

TAKEN IN THE NAME AS FOLLOWS: dba WINDHURST RD. WATER CORP.

T. 28 & 29 S. R. 14W., W.M.

N

1" = 800'

S = 2.8
P = 10.0

S = 2.2
P = 20.0

S = 13.0

S = 5.0

P = 0.4

P = 1.4

P = 2.0

P = 16.6

P = 0.3

P = 6.0

P = 17.0

S = 0.25

S = 0.8
P = 0.2

S = 13.1
P = 2.0

P = 5.0

P = 5.5

P = 9.8

P = 5.0

P = 3.0

W. 1/4 COR.
SECTION 3

POINT OF DIVERSION

FERRY CREEK

BEAR CR.

SEIGER CREEK

JOHNSON CREEK

WINCHESTER ROAD

T28S

T29S

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 BOUNDARY LINES.

Certified Water Right Examiner
#054 WRE
James F. Gosson
Nov. 19, 1987
STATE OF OREGON

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WATER RESOURCES DEPT.
SALEM, OREGON

CRANBERRY TEMPERATURE CONTROL

SUPPLEMENTAL

PRIMARY

RECEIVED
JUN - 1 1994
WATER RESOURCES DEPT.
SALEM, OREGON

Application No. 69654 & R-69708
Permit No. 53703 R12528

P.O.D. IS 40 FT. S. & 2340 FT. E. FROM THE WEST 1/4 CORNER OF SECTION 3.