

P&S Approved - Design ready for Construction
See letter dated 4/27/99. A Dam Safety



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

DATE MAILED: February 10, 2017

NOTICE OF CERTIFICATE ISSUANCE

The attached certificate confirms the water right established under the terms of a permit issued by this Department. The water right is now appurtenant to the specific place where the use was established as described by the certificate. The water right is limited to a specific amount of water, but not more than can be beneficially used for the purposes stated within the certificate.

The certificate is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and 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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.

Oregon law does not allow the Director to reissue a certificate because of a change in the ownership of the appurtenant place of use. The water must be controlled and not wasted. To change the location of the point of diversion, the character of use, or the location of use requires the advance approval of the Water Resources Director.

If any portion of this water right is not used for five or more consecutive years that portion of the right may be subject to forfeiture according to ORS 540.610. Land enrolled in a Federal Reserve Program is not subject to forfeiture during the period of enrollment. Other exceptions to forfeiture are explained in ORS 540.610.

If you have any questions please contact Gerry Clark at 503-986-0811.

STATE OF OREGON

COUNTY OF MARION

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KRAUTMANN FAMILY NURSERY LLC
4199 75TH AVE SE
SALEM OR 97301-9242

confirms the right to store water perfected under the terms of Permit R-12733. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: R-84036

SOURCE OF WATER: WEAVER GULCH AND UNNAMED STREAM, TRIBUTARIES OF MILLER CREEK

STORAGE FACILITY: WESTBROOK RESERVOIR

PURPOSE OR USE OF THE STORED WATER: IRRIGATION AND RECREATION

MAXIMUM STORAGE VOLUME: 121.0 ACRE-FEET (AF) PER YEAR EACH YEAR, BEING 16.0 AF FOR RECREATION AND 105.0 AF FOR IRRIGATION

WATER MAY BE APPROPRIATED FOR STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: JANUARY 7, 1999

The dam outlet is located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	3 W	WM	14	NW SE	42	2100 FEET NORTH AND 1470 FEET WEST FROM SE CORNER, SECTION 14

The area submerged by this reservoir is as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC
9 S	3 W	WM	14	SE NE	
9 S	3 W	WM	14	NE SE	
9 S	3 W	WM	14	NE SE	42
9 S	3 W	WM	14	NW SE	42

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or other suitable measuring device approved by the Director 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 water user to report general water-use information, including the place and nature of use of water under the right.
- B. The water user 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 use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

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

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

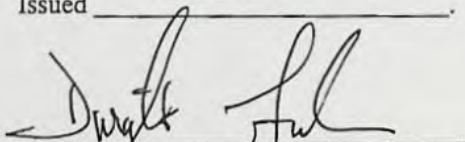
This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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

Issued FEB 10 2017

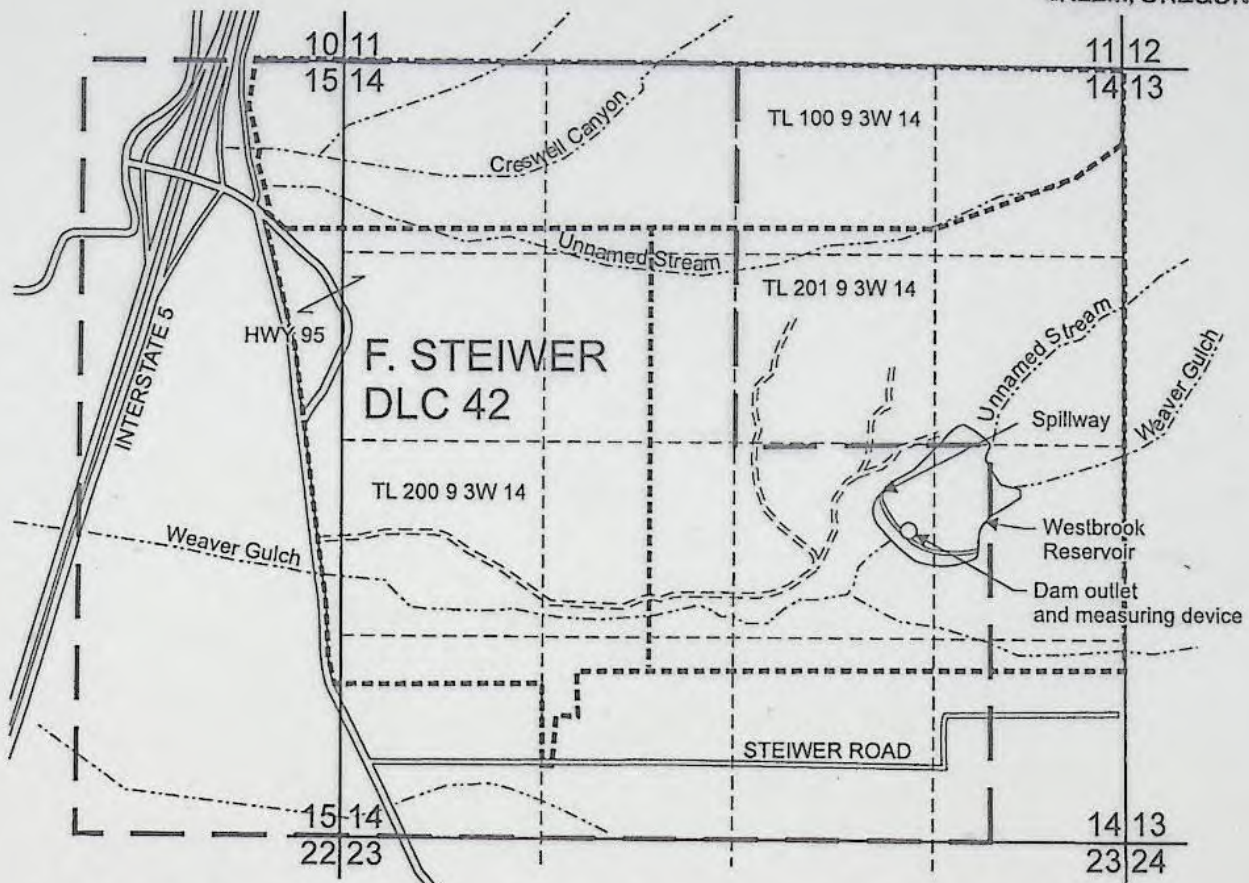


Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

T.9S. R.3W. Section 14, W.M.

JUL 07 2011

WATER RESOURCES DEPT
SALEM, OREGON



Dam outlet and measuring device - 2100 feet north and 1470 feet west of the southeast corner of Section 14

Westbrook Reservoir - 121.0 AF, Application R-84036, Permit R-12733, and 20.2 AF, Application R-84703, Permit R-13367

----- Tax lot boundary



EXPIRATION DATE 6/30/2013

Scale: 1" = 1,320'



This map was prepared for the purpose of identifying the location of a water right only and is not intended to provide legal dimensions or location of property ownership lines.



Pacific Hydro-Geology Inc.

Claim of Beneficial Use Map
Application R-84036, Permit R-12733
Application R-84703, Permit R-13367

Krautmann Family Nursery LLC
Tax Lot 201 9 3W 14

6/2011 - bgp

Krautmann Family Nursery LLC.cdr

Mailing List for Certificate

Application: R-84036

Permit: R-12733

Certificate: 92111

Permit/Certificate Holder:

✓ KRAUTMANN FAMILY NURSERY LLC
4199 75TH AVE SE
SALEM OR 97301-9242

Copies of Final Certificate to be sent to:

- ✓ 1. Watermaster District #: 16
- ~~2. Data Center (include copy of map)~~
- ✓ 3. Water Availability
- ✓ 4. Vault
- ✓ 5. File

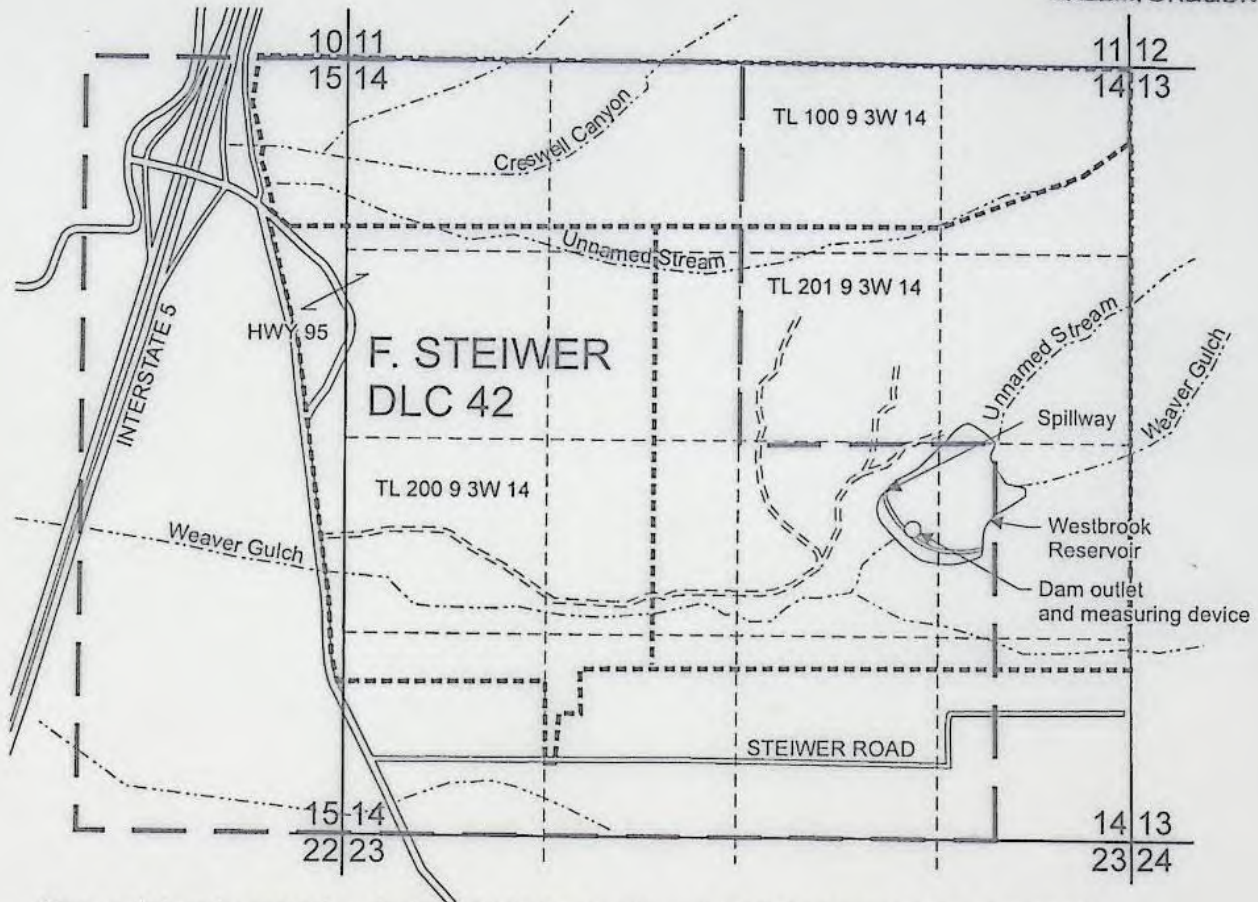
Other persons to receive copies: (include map):

- ✓ 1. MALIA KUPILLAS, CWRE, PACIFIC HYDRO-GEOLOGY INC

Copies Mailed	
by:	<u>VGK</u> (STAFF)
on:	<u>2/10/17</u> (DATE)

T.9S. R.3W. Section 14, W.M.

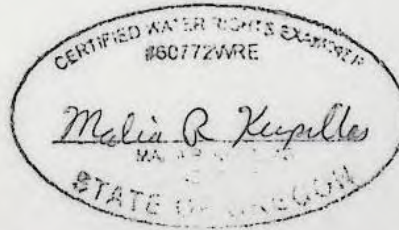
RECEIVED
 JUL 07 2011
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 Tax Lot 201 9 3W 14

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Issued _____.

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

MEMO -Proof to Satisfaction (March 17, 2014)

Application # R-84036	Permit # R-12733	Transfer #
WRD Reviewer Jessica Joye	Date 11-28-16	
WRD Peer Reviewer J Skoug	Date 11-29-16	

Research

- Organize file in chronological order
- Pull CBU Report & Map(s), Application Map, relevant Permit, Certificate, or Transfer Order, most recent Assignments, Extension Orders, SWL Measurements, Fish Screen Certification Documents, Water Use Reports & Pump Tests
- Search for Water Right Location using Interactive Mapper. Identify Tax Lots & check for Area of Interest (AOI)
- Water Organization identified using AOI? No Yes
If "Yes" cc: _____ & Add to Mailing List
- Print Tax Lot Map from ormap.net for the original Place of Use, and confirm Current Ownership & Address with County Assessor
If there is a new owner, Add to Mailing List, including the owner(s) name & tax lot number
- Print Platcard & check for Place of Use Conflict? No Yes
If "Yes", provide copy of certificate & relevant map
- Print BLM Cadastral Survey
- Does Claim Map identify correct DLC, Gov't Lots, QQ's? No Yes
If "No", either _____ WRD amend map OR _____ prepare Order of Certification

Enlarg. R-84703 ← Surface CBU Not submitted

Reviewing Claim

Have conditions on relevant permit, certificate, or transfer order been complied with? Yes, No, OR N/A

- N/A Fish Conditions waived 8-12-99
- YES Meter/measuring device
- YES Water Use Reporting
- N/A Pump Test (post December 19, 1988)
- Other Conditions _____
- SWL
- YES C-Date 10-1-03 Ext. 10-1-10

N/A Run Capacity Calculator and Print Findings (for pump, sprinklers, pipes, ditches, as appropriate)

NOTES:

Determination

I've determined that the permit/transfer was fully developed as authorized and that a **FINAL** Certificate should be issued. *Proof made 121.0AF*

I've determined that the permit/transfer was not fully developed as authorized and that a **PROPOSED** Certificate should be issued. A proposed Certificate should be issued for the following reason(s):

I've determined that beneficial use was NOT made within the terms and conditions and that a **Proposed Order of Certification** (denial) should be issued. A proposed Order of Certification should be issued for the following reason(s):

Processing

Stamp PROPOSED or Assign CERT# _____ or ORDER OF CERTIFICATION (circle one)

Draft Certificates or Proposed Order of Certifications are available in the Application directory.

Prepare Mailing List. Include Applicant(s); Receiving Landowner(s); Current Owner(s); Water Organizations; CWRE. Indicate records to be marked.

<input type="checkbox"/> Record marking:	App _____	Permit _____	Cert _____
	App _____	Permit _____	Cert _____
	App _____	Permit _____	Cert _____
	App _____	Permit _____	Cert _____

NOTES:



09 3W 14



MARION COUNTY, OREGON
 SEC 14 T9S R3W W.M.
 SCALE 1" = 400'

LEGEND

- LINE TYPES
- Taxlot Boundary
 - Road Right-of-Way
 - Railroad Right-of-Way
 - Private Road ROW
 - Subdivision/Plat Bndry
 - Waterline - Taxlot Bndry
 - Historical Boundary
 - Easement
 - Railroad Centerline
 - Taxcode Line
 - Map Boundary
 - Waterline - Non Bndry

- SYMBOL TYPES
- Survey Monument
 - Road Station
 - DLC Corner
 - 1/16th Section Cor.
 - 1/4 Section Cor.
 - 16, 15 Section Corner
 - 21 22

NUMBERS
 Tax Code Number
 000 00 00 0

Acreage 201 AC All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

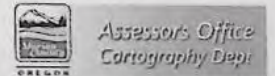
NOTES
 Tick Marks: If a tick mark is indicated on the end of a line, then the dimension goes to the tick mark. This is used when dimensions extend into public right-of-ways.



CANCELLED NUMBERS

201			
1700			
2100			

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT www.co.marion.oregon.us

PLOT DATE: 7/7/2016

09 3W 14

Marion County Assessor's Property Records Property Summary

Property Identification

Account No.:	R332389	Manufactured Home ID:	
Situs Address:		Legal Description:	P.P. 2003-022, PARCEL 1, ACRES 227.13
Map Tax Lot:	093W14 00201		

Owner Information

Owner: KRAUTMANN FAMILY NURSERY LLC
4199 75TH AV SE
SALEM, OR 97317

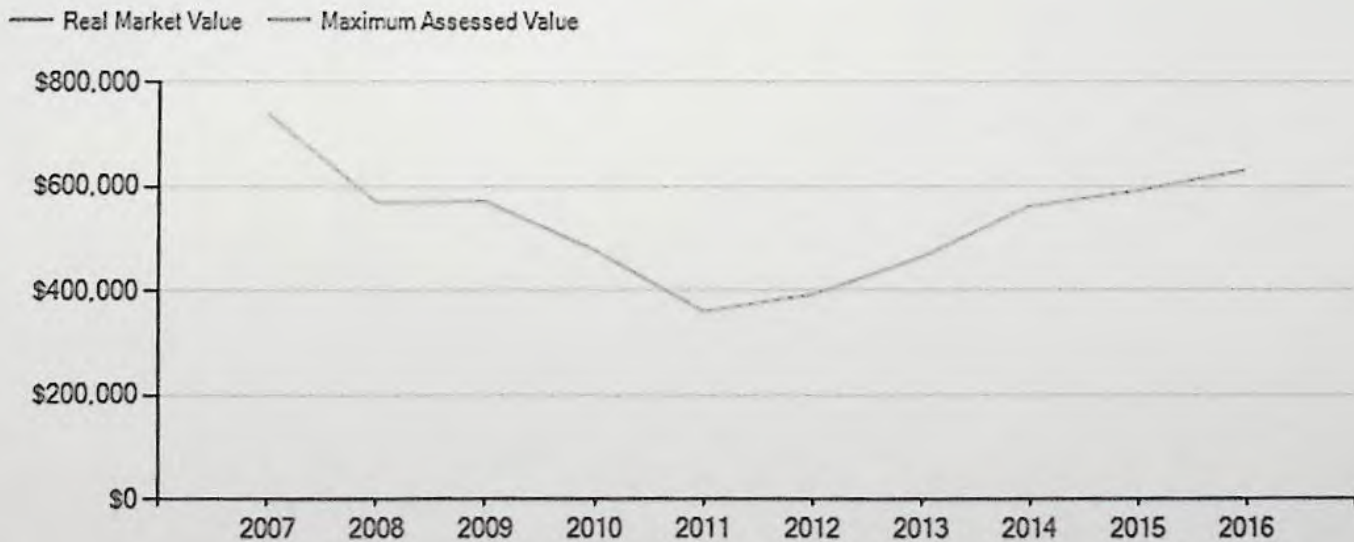
Property Details

Year Built:		Property Code:	A90
Living Area:		Property Class:	551
Bedrooms:		Levy Code Area:	81400130
Bathrooms:		Zoning:	Contact Local Jurisdiction
Legal Acreage:	227.13	Apex Sketches:	None Available

Value Information

RMV Land Market:	\$0		
RMV Land Spec. Assess.:	\$631,650		
RMV Structures:	\$0		
RMV Total:	\$631,650		
SAV:	\$263,790		
Exception RMV:	\$0		
Exemption RMV:	\$0	Exemption Description:	None
M5 Taxable:	\$263,790		
MAV:	\$0		
MSAV:	\$98,010		
AV:	\$98,010		

Graph shows tax roll Real Market Value and Maximum Assessed Value of this property for past 10 years. For a detailed explanation, please see definition of Assessed Value above (hover over the "i").

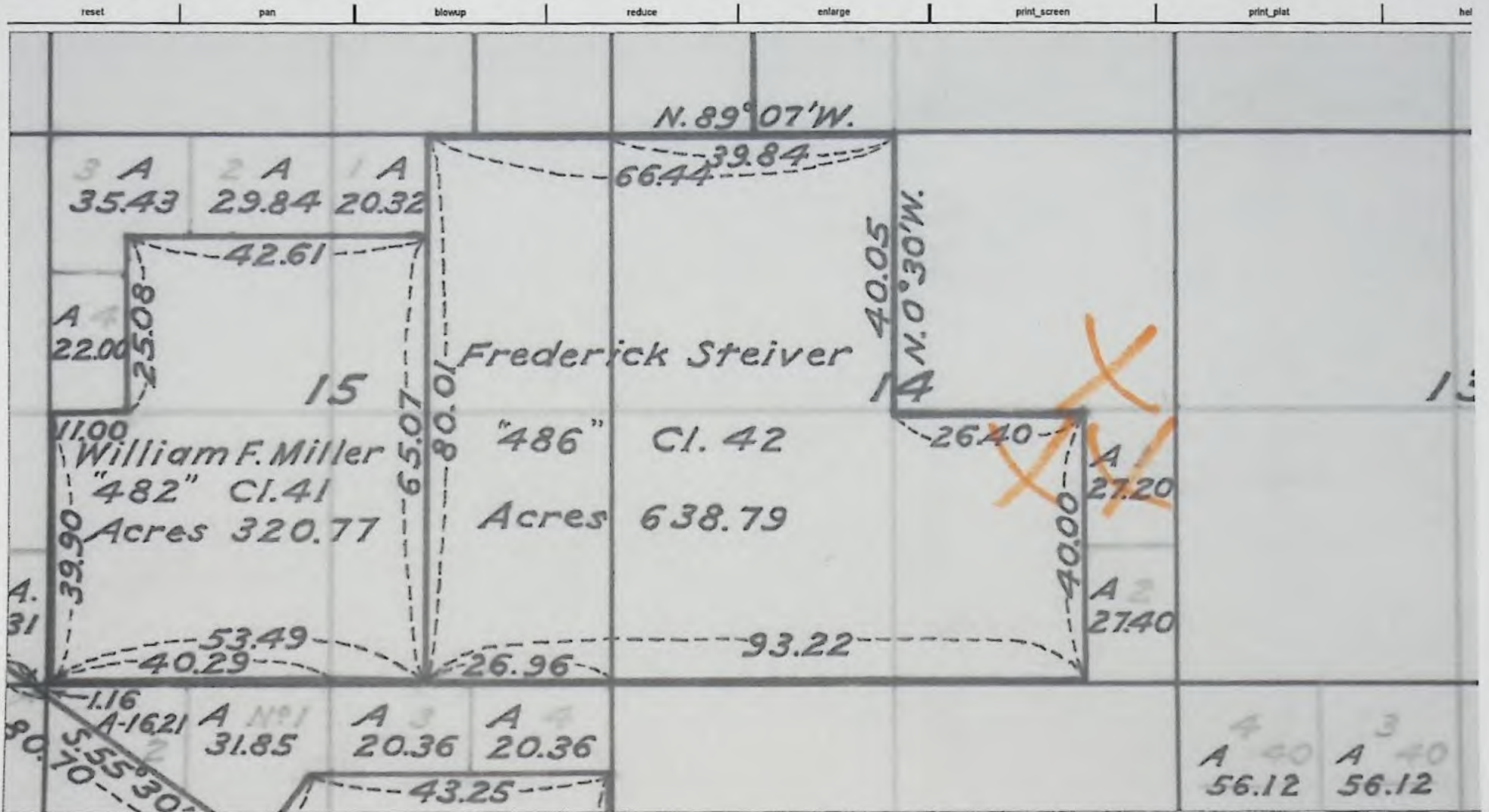


Tax Information

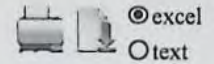
Taxes Levied 2016-17:	\$1,061.36	Tax Payoff Amount:	\$0.00
Tax Rate:	10.8292	Tax Statement:	Original 2016-17 Tax Statement

Sales Information

Sales Date:	10/15/2003	Deed Number:	22170276
Sales Price:	\$1,350,000	Deed Type:	WD
Sale Type:	27	Property IDs Included in Sale:	R332389 R36332



Water Use Report Based on Water Right



Permit: R 12733 *

KRAUTMANN FAMILY NURSERY LLC 4199 75TH AVE SE SALEM, OR 97301-9242

Records per page:

Acre-feet (AF) of Water Used

<u>Water Year*</u>	<u>Report ID</u>	<u>Facility</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Total Water Used</u>	<u>Irrigated Acres</u>
2015	62654	WESTBROOK RES STORAGE	100.00	115.00	126.00	126.00	115.00	115.00	115.00	115.00	115.00	115.00	100.00	115.00	126.00	
2014	62654	WESTBROOK RES STORAGE	110.00	110.00	110.00	128.00	128.00	128.00	110.00	110.00	110.00	108.00	108.00	107.00	128.00	
2013	62654	WESTBROOK RES STORAGE	103.00	103.00	126.00	126.00	103.00	103.00	103.00	103.00	103.00	103.00	103.00	103.00	126.00	
2012	62654	WESTBROOK RES STORAGE	99.00	105.00	126.00	131.00	130.00	116.00	116.00	115.00	110.00	110.00	110.00	110.00	131.00	
2011	62654	WESTBROOK RES STORAGE	100.00	115.00	126.00	126.00	115.00	115.00	115.00	115.00	115.00	115.00	110.00	126.00	126.00	
2010	62654	WESTBROOK RES STORAGE	103.00	112.00	135.00	132.00	130.00	130.00	125.00	125.00	125.00	110.00	110.00	102.00	135.00	
2009	62654	WESTBROOK RES STORAGE	112.00	112.00	112.00	112.00	112.00	112.00	112.00	112.00	103.00	103.00	103.00	103.00	112.00	

*The water year is named for the calendar year in which it ends. Example: the 2014 water year begins Oct. 1, 2013 and ends Sep. 30, 2014.

- Water use is reported by point of diversion (POD), rather than by water right.
- If a POD is shared with multiple water rights, it is not feasible to separate out the amount used under the water right being queried from water used by other rights using this same POD.
- Monthly amounts indicate:
 - For diverted rights, the total amount diverted during the month;
 - For storage rights, the amount generally stored in the reservoir/pond during the month, as represented by the volume of water impounded on approximately the same day each month.
- Water Use amounts have all been converted to "acre-feet" (AF), regardless of the original measurement unit reported. One AF is the volume of water that will cover an acre of ground one foot deep = 325,850 gallons.
- Zeroes indicate that a report was received, stating that no water was used during those months; if a year is not listed, no report of water use was received for that year.



Search Criteria

Meridian:
 Township:
 Range:
 Section:
 Records per Page:

[Platcards Maps!](#)
[Learn about](#) * [View Map](#)

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	qq(40):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unkown		
							Q(160):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	QQ		
Select App: P 82611 *		1/31/1997	LIVESTOCK							*										*			*			
Additional Info: ROBERT L RIEMENSCHNEIDER App: P82611																										
Select Permit: R 12733 *		1/7/1999	STORAGE																	*	*					
Additional Info: KRAUTMANN FAMILY NURSERY LLC App: R84036 Permit: R12733																										
Select Permit: R 12733 *		1/7/1999	RECREATION																	*	*					
Additional Info: KRAUTMANN FAMILY NURSERY LLC App: R84036 Permit: R12733																										
Select Permit: S 53603 *		1/15/1999	IRRIGATION					14.5	7.2	40	40	7.4	7.6	40	40	37	37.1	4	2	31.8	25.7			2.7		
Additional Info: KRAUTMANN FAMILY NURSERY LLC App: S84037 Permit: S53603																										
Select Permit: S 53603 *		1/15/1999	SUPPLEMENTAL IRRIGATION (Suppl'mtl)													2.9	2.9	1.2	2.7	2.5	6.8	2.6	0.8			
Additional Info: KRAUTMANN FAMILY NURSERY LLC App: S84037 Permit: S53603																										
Select Cert:14533 OR *		6/27/1941	DOMESTIC																	*						
Additional Info: KARL STEIWER App: S19385 Permit: S14992 Cert: 14533																										
Select Cert:23305 OR *		11/18/1947	DOMESTIC																	*	*					
Additional Info: JANET GREY STEIWER App: S22916																										

Regular
acreage

Acreage is on a canceled
right

Acreage is part of a transfer and has not been proven up on
yet (inchoate)

[12.25] Acreage has been
suspended

Acreage is not
specified

STATE OF OREGON

COUNTY OF MARION

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

~~GLEN D. & MARY L. WESTBROOK~~ **KRAUTMANN FAMILY NURSERY LLC**
~~3022 UMATILLA PLACE~~ **4199 75TH AV SE** (541) 928-8293
~~ALBANY, OREGON 97321~~ **SALEM OR 97317**

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: R-84036

SOURCE OF WATER: WEAVER GULCH AND AN UNNAMED STREAM, TRIBUTARIES OF MILLER CREEK

STORAGE FACILITY: WESTBROOK RESERVOIR ✓

PURPOSE OR USE OF THE STORED WATER: IRRIGATION AND RECREATION

PURPOSE OR USE OF THE STORED WATER: RECREATION AND TO BE APPROPRIATED UNDER PERMIT 53603 FOR IRRIGATION

MAXIMUM VOLUME: 121 ✓ AF PER YEAR EACH YEAR, BEING 16.0 ✓ ACRE-FEET FOR RECREATION AND 105 ✓ ACRE-FEET FOR IRRIGATION

WATER MAY BE APPROPRIATED FOR STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: JANUARY 7, 1999

The area submerged by the reservoir, when full, will be 24.4 acres and the maximum depth of water will be 20.5 feet. The maximum height of the dam shall not exceed 25.0 feet.

DAM LOCATION: NW 1/4 SE 1/4 ✓ SECTION 14 ✓ T9S ✓ R3W ✓ W.M.; ²¹⁰⁰ 2030 FEET NORTH AND ¹⁴⁷⁰ 1510 FEET WEST FROM THE SE CORNER SECTION 14 ✓

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

⊕ SENE

NE 1/4 SE 1/4

NW 1/4 SE 1/4

SECTION 14

TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

Application R-84036 Water Resources Department

PERMIT R-12733

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. ✓ *Wm approved. Reports 2009 submitted -OK*
- 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.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

~~The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water. ✓ *Waived*~~

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

Routine maintenance of the dam, its spillway 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 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.

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

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

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 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.

STANDARD CONDITIONS

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.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

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.

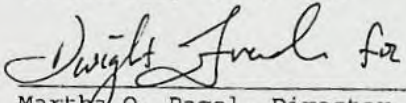
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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 by July 30, 1999. The reservoir shall be filled and complete application of the stored water to the use shall be made on or before ~~October 1, 2003~~^{10.1.10}. 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 July 30, 1999



Martha O. Pagel, Director
Water Resources Department

Application R-84036
Basin 2
RWK

Water Resources Department
Volume 7 SANTIAM R MISC

PERMIT R-12733
District 16



Date Received 7/7/2011 Application # R 84036
CWRE Name Melie Kupiles Claim Logged yes
File Marked yes
Oversized Map # _____
Read the file and attach a copy of the permit or transfer final order. _____

Map Review:

- Map on polyester film (OAR 690-014-0170(1) & 310-0050(1)(b))
- Application & permit #; or transfer # (OAR 690-014-0100(1))
- Disclaimer (OAR 690-014-0170(5))
- North arrow (OAR 690-310-0050(2)(c))
- CWRE stamp and signature (OAR 690-014 & 310-0050)
- Appropriate scale (1" = 1320', 1" = 400', or the original full-size scale of the county assessor map) (014 & 310)
- Township, range, section, and tax lot numbers (OAR 690-310-0050(4))
- _____ Source illustrated if surface water (OAR 690-014-0170(3))
- _____ Point(s) of diversion or appropriation (illustrated) (OAR 690-014(4) & 690-310-0050)
- _____ Point(s) of diversion or appropriation (coordinates)(OAR 690-014(4) & 690-310-0050)
- _____ Conveyance structures illustrated (pump, pipelines, ditches, etc.) (OAR 690-310-0050)
- _____ Description of the location, in relation to the point of diversion or appropriation, of any fish screens, by-pass devices, and measuring devices required (OAR 690-014(4))
- _____ Place of use (1/4 1/4, or projected 1/4 1/4 lines within DLCs, or Gov Lots; if irrigation, # of acres in each subdivision; if for domestic or human consumption, location of dwelling or spigot) (OAR 690-310-0050, 690-014, 690-380-6010)

Report Review:

- On form or format provided by the Department (OAR 690-014-0100(1))
- Application & permit #; or transfer # (OAR 690-014)
- Ownership information (OAR 690-014)
- Date of survey (OAR 690-014)
- Person interviewed (OAR 690-014)
- County (OAR 690-014)
- Tax lot information (OAR 690-014)
- _____ Description of conveyances system (from POD to POU) (OAR 690-014-0100)
- _____ Source(s) of water (OAR 690-014-0100)
- _____ Point of diversion/appropriation location (OAR 690-014-0100)
- _____ Use, period of use, and rate for use (OAR 690-014-0100)
- _____ Place of use location (OAR 690-014-0100)
- _____ Type of use (OAR 690-014-0100)
- _____ Extent of use (OAR 690-014-0100)
- _____ Rate and Duty (OAR 690-014-0100)
- _____ Diversion rate for each use (OAR 690-014-0100)
- _____ Diversion works description (pump make, serial model, capacity, and description) (OAR 690-014-0100)
- _____ System capacity (OAR 690-014-0100)
 - _____ Calculated capacity of system (required)
 - _____ Measured amount of use (optional)
- _____ Permit/Transfer Final Order Conditions (OAR 690-014-0100)
 - _____ Time limits
 - _____ Initial water level measurements
 - _____ Annual static water level measurements
 - _____ Measurement, recording, and reporting
 - _____ Meter/measuring device
 - _____ Water use reporting
 - _____ Fish screening and/or by-pass
 - _____ Pump test (ground water)
 - _____ Other conditions
- _____ CWRE stamp and signature (OAR 690-014-0100)
- Signature(s) of permittee of transfer holder (OAR 690-014-0100)

DEF = deficient
N/A = Not Applicable

Certificate Issuance Processing Checklist

- Map and COBU reviewed
- Conflict check (include copy of plat card printout) Any Conflicts? _____
- Check for ownership

Staff Recommendations:

- Proof to the Satisfaction has been established to the full extent as described in the permit or transfer order.
- Proof to the Satisfaction has been not been established to the full extent as described in the permit or transfer order and the right should be limited as follows: _____
- Proof to the Satisfaction has not been established for the following reasons: _____
- Proposed Actions:
 - Send letter requesting the following items/information: _____
 - Send letter recommending extension to cure deficiencies: _____

Can certificate be processed further?

Yes

If "Yes":

Proposed
 Final

Certificate # _____

Mailing list:

Proposed:

Final:

CLAIM OF BENEFICIAL USE for Reservoir Permits by CWRE's (not self-certified)



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

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**A fee of \$150 must accompany this form to be accepted for permits
with a priority date of July 9, 1987, or later. (ORS 536.050(1))**

A separate form shall be completed for each permit.

In cases where a permit has been amended through the permit amendment process, a separate claim for the permit amendment is not required. Incorporate the permit amendment into the claim for the permit.

This form is subject to revision. **Begin each new claim** by checking for a new version of this form at:
http://www.wrd.state.or.us/OWRD/WR/cwre_info.shtml#.

The completion of this form is required by OAR 690-014-0100(1) and 690-014-0110(4).

Please type or print in dark ink. If this form is found to contain errors or omissions, it may be returned to you. **Every item must have a response.** If any requested information does not apply to the claim, insert "NA." **Do not delete or alter any section of this form unless directed by the form.** The Department may require the submittal of additional information from any water user or authorized agent.

If you have questions regarding the completion of this form, please call 503-986-0900 and ask for the Certificate Section.

The Department has a program that allows it to enter into a voluntary agreement with an applicant for expedited services. Under such an agreement, the applicant pays the cost to hire additional staff that would not otherwise be available. This program means a certificate may be issued in about a month. For more information on this program see http://www.wrd.state.or.us/OWRD/mgmt_reimbursement_authority.shtml.

SECTION 1

GENERAL INFORMATION

1. File Information

APPLICATION # R-84036	PERMIT # (IF APPLICABLE) R-12733	PERMIT AMENDMENT # (IF APPLICABLE)
---------------------------------	--	------------------------------------

2. Property Owner (current owner information)

APPLICANT/BUSINESS NAME Krautmann Family Nursery LLC		PHONE No. 503-585-9835	ADDITIONAL CONTACT No.
ADDRESS 4194 71st Ave SE			
CITY Salem	STATE OR	ZIP 97301	E-MAIL mark@heritageseedlings.com

If the current property owner is not the permit holder of record, it is recommended that an assignment be filed with the Department. **The COBU must be signed by the permit holder of record.**

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3. Is the Property Owner the permit holder of record?

4. Date of Site Inspection: **March 3, 2009**

5. Person(s) interviewed and description of their association with the project:

NAME	DATE	ASSOCIATION WITH THE PROJECT
Linda Boyer	March 3, 2009	Water Rights Manager, Heritage Seedlings
Mark Krautmann	March 3, 2009	Owner of Heritage Seedlings and permit holder.

6. County: **Marion**

7. If any property described in the place of use of the permit final order is excluded from this report, identify the owner of record for that property (ORS 537.230(4)):

**Mark "NA" if there are no owners of property not included in this claim

OWNER OF RECORD N/A		
ADDRESS		
CITY	STATE	ZIP

Are there additional Owners of Record?

NO

SYSTEM DESCRIPTION

A. Reservoir(s)

1. Reservoir source and, if from surface water, the tributary:

RESERVOIR NAME OR NUMBER	SOURCE	TRIBUTARY
Westbrook Reservoir	Unnamed Stream & Weaver Gulch	Miller Creek

2. Developed use(s), period of use, and rate for each use:

RESERVOIR NAME OR NUMBER	USES	SEASON OR MONTHS WHEN WATER WAS STORED	VOLUME STORED (AF)
Westbrook Reservoir	Irrigation	Nov. 1 – June 30	105.0 AF
Westbrook Reservoir	Recreation	Nov. 1 – June 30	16.0 AF
Total Quantity of Water Stored			121.0 AF

3. Provide a general narrative description of the distribution works. This description must trace the water system from each point of diversion to the reservoir:

The reservoir is located in channel. Two first-order drainages (Weaver Gulch and an unnamed drainage) discharge directly into the reservoir.

SECTION 2

SYSTEM DESCRIPTION (B through F)

Are there multiple reservoirs?

NO

If "YES" you will need to copy and complete Sections 2B through 2F for each reservoir.

Reservoir Name or Number this section describes (only needed if there is more than one)

Westbrook Reservoir

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B. Reservoir Location

1. Is the reservoir on-channel?

YES

2. Provide dam outlet location and/or point of diversion(s).

TWP	RNG	MER	SEC	Q-Q	GLOT	DLC	MEASURED DISTANCES
9S	3W	WM	14	NW SE		42	The dam outlet is 2100 feet north and 1470 feet west of SE corner, Section 14

Reminder: The map associated with this claim must identify Donation Land Claims (DLC), Government Lots (Gov Lot), and Quarter-Quarters (QQ).

C. Diversion and Delivery System Information

Provide the following information concerning the diversion and delivery system. Information provided must describe the equipment used to transport the water from the point(s) of diversion to the reservoir.

1. Is a pump used?

NO

D. Gravity Flow Pipe

(THE DEPARTMENT TYPICALLY USES THE HAZEN-WILLIAM'S FORMULA FOR A GRAVITY FLOW PIPE SYSTEM)

1. Does the system involve a gravity flow pipe?

NO

E. Gravity Flow Canal or Ditch

(THE DEPARTMENT TYPICALLY USES MANNING'S FORMULA FOR CANALS AND DITCHES)

1. Is a gravity flow canal or ditch used to convey the water as part of the distribution system?

NO

F. Reservoir

1. Does the reservoir require the submittal of as-built plans and specifications?

YES

If "YES", answer items 2; items 3 through 8 relating to this section may be deleted.

If "NO", skip items 2; answer items 3 through 8.

2. Complete the table:

HAVE THE DOCUMENTS BEEN SUBMITTED? YES OR NO	WHEN WERE THE DOCUMENTS SUBMITTED?	HAVE THEY BEEN APPROVED BY THE DEPARTMENT?	NUMBER OF ACRE FEET STORED
Yes	October 29, 1999 drawing of record date, map not stamped	Yes	121.0 AF

3. If the reservoir stores less than 9.2 acre-feet of water or if the dam is less than 10 feet in height, and as-built plans and specifications are not required, complete the table and items 4 through 8.

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**SECTION 3
CONDITIONS**

Please pay special attention to this section. All conditions contained in the permit, permit amendment, or any extension final order shall be addressed. Reports that do not address all performance related conditions will be returned.

1. Time Limits:

Permits and any extension final orders contain any or all of the following dates; the date when the actual construction work was to begin, the date when the construction was to be completed, and the date when the complete application of water to the proposed use is to be completed by. These dates may be referred to as ABC dates. Describe how the water user has complied with each of the development timelines established in the permit or extension final order:

	DATE FROM PERMIT	DATE ACCOMPLISHED*	DESCRIPTION OF ACTIONS TAKEN BY WATER USER TO COMPLY WITH THE TIME LIMITS
ISSUANCE DATE	July 30, 1999		
BEGIN CONSTRUCTION (A)	July 30, 1999	July 30, 1999	Actual construction work began by July 30, 1999.
COMPLETE CONSTRUCTION (B)	Oct. 1, 2003	October 29, 1999	Construction was complete by October 29, 1999.
COMPLETE APPLICATION OF WATER (C)	October 1, 2003	October 29, 1999	Application of water was complete by October 29, 1999.

* MUST BE WITHIN PERIOD BETWEEN PERMIT OR ANY EXTENSION FINAL ORDER ISSUANCE AND THE DATE TO COMPLETELY APPLY WATER

2. Is there an extension final order(s)? YES

3. Measurement Conditions:

a. Does the permit, permit amendment, or any extension final order require the installation of a meter or approved measuring device? YES

If "NO", items 3b through 3f relating to this section may be deleted.

Reminder: If a meter or approved measuring device was required, the COBU map must indicate the location of the device in relation to the point of diversion or appropriation.

b. Has a meter been installed? NO

c. Meter Information

POD/POA NAME OR #	MANUFACTURER	SERIAL #	CONDITION (WORKING OR NOT)	CURRENT METER READING	DATE INSTALLED
NA					

d. If a meter has not been installed, has a suitable measuring device been installed and approved by the Department? YES

If a meter has been installed, items 6e through 6g relating to this section may be deleted.

e. If "YES", provide a copy of the letter approving the device, if available. If the letter is not available provide the name and title of the Water Resources Department employee approving the measuring device, and the approximate date of the approval:

NAME	TITLE	APPROXIMATE DATE
Mike McCord	Dist. 16 Water Master	April 2009

f. Measurement Device Description

DEVICE DESCRIPTION	CONDITION (WORKING OR NOT)	DATE INSTALLED
Measure from top of concrete outflow box, known elevation is 359.34 feet	Working at time of visit.	October 1999

4. Recording and reporting conditions

a. Is the water user required to report the water use to the Department?

If "NO", item 4b relating to this section may be deleted.

b. Have the reports been submitted?

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YES

YES

METHOD OF SUBMITTING REPORT (PAPER OR ELECTRONIC)	WATER USER REPORTING ID
Electronic	62654

If the reports have not been submitted, attach a copy of the reports if available.

5. Fish Screening

a. Are any points of diversion required to be screened to prevent fish from entering the point of diversion?

YES

A fish screen was required in the permit application but the permit holder received a waiver from ODFW; signed by Wayne Hunt, Fish Biologist, August 12, 1999. See attached letter.

6. By-pass Devices

a. Are any points of diversion required to have a by-pass device to prevent fish from entering the point of diversion?

NO

7. Other conditions required by permit, permit amendment final order, or extension final order

a. Was the water user required to restore the riparian area if it was disturbed?

YES

b. Was a fishway required?

YES

c. Was submittal of a letter from an engineer required prior to storage of water?

YES

d. Was submittal of a water management and conservation plan required?

NO

e. Other conditions?

YES

- f. If "YES" to any of the above, identify the condition and describe the water user's actions to comply with the condition(s):

- 1. If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area.**

Riparian area was in good conditions at time of site visit.

- 2. The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion.**

Enclosed letter from ODFW demonstrates the condition was waived.

- 3. 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.**

Letter attached showing approval by OWRD of the reservoir as-built plans submitted by Martin Boatwright on March 7, 2001.

Other conditions:

- 1. The outlet gate shall be cycled at least once each year and shall be fully operational at all time.**

Operational on March 3, 2009 site visit.

- 2. Routine maintenance of the dam, its spillway 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.**

Maintained at the time of the March 3, 2009 site visit.

- 3. 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.**

The above mentioned have been constructed and maintained in accordance with the approved plans and specifications.

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

No significant changes were made; all construction was performed under the supervision of a registered professional engineer licensed in Oregon.

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

No fill was placed prior to preparation of the foundation and excavation of the core trench was complete and examined.

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6. 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 as built drawings, including a revised reservoir capacity graph/table must accompany the engineer's written certificate of completion.

The actual reservoir capacity exceeded the permitted reservoir capacity. The OWRD issued a letter to the project engineer on March 7, 2001 acknowledging receipt of the as built plans and the reservoir capacity graph. See attached letter.

7. 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 any significant modification, alteration, or rehabilitation of the dam, spillway or appent structure.

Reservoir capacity exceeded that specified by the permit. Permit holder applied for an additional water right of 20.2 acre feet (Application R-84703 and Permit R-13367).

8. The permittee 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.

The permittee did not record the amount of water used (stored) each month or submit a water use report to the Department within the permitted period of time. Therefore, in order to fulfill the condition requirement, the permittee applied for and Extension of Time. The Extension stated the deadline for applying water to full beneficial use was October 1, 2010. The permittee kept a record of the amount of water used (stored) monthly and submitted it to OWRD October through September 2009 and 2010.

Extension of Time Conditions:

1. The permit holder must submit a completed Progress Report Form to OWRD by October 1, 2010.

The authorized period of time between the Extension of Time issuance and the Extension of Time "C" date was less than 4 months. This condition coincides with the "C" date; the deadline for applying water to full beneficial use. The information provided herein shall serve to demonstrate that water was put to full beneficial use and all permit conditions were fulfilled within the authorized time under the Extension of Time.

2. 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.

The authorized period of time between the Extension of Time issuance and the Extension of Time "C" date was less than 4 months. This condition coincides with the "C" date; the deadline for applying water to full beneficial use. The information provided herein shall serve to demonstrate that water was put to full beneficial use and all permit conditions were fulfilled within the authorized time under the Extension of Time.

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SECTION 4 VARIATIONS

Include a description of variations from the permit, permit amendment final order, or extension final order. (i.e. "The permit allowed three reservoirs. The water user only developed one of the reservoirs." or "The permit allowed for the storage of 40.0 AF. The water user only stored 10.0 AF.")

The permit allowed for storage of 121.0 AF and the constructed reservoir had the capacity for 141.2 AF. A second permit was issued for 20.2 AF (Application R-84703 and Permit R-13367).

On August 12, 1999 ODFW waived the fish screen and fish passage requirement.

The Department issued an Extension of Time Final Order on June 22, 2010. The purpose of this extension was to allow the permit holder to collect water-level data to meet the permit's water reporting requirements.

SECTION 5 ATTACHMENTS

If you are attaching any documents to this report, provide a list:

ATTACHMENT NAME	DESCRIPTION
COBU Map	Map for COBU
ODFW letter	Letter from the ODFW waiving the fish screen requirement.
OWRD letter	March 7, 2001 letter from the Department to the project engineer acknowledging receipt of the as-built plans.
OWRD extension	Granted an extension to complete water-level data collection requirement.

SECTION 6 CLAIM SUMMARY

RESERVOIR NAME OR #	MAXIMUM STORAGE AUTHORIZED BY PERMIT (AF)	MAXIMUM STORAGE DEVELOPED (AF)
Westbrook Reservoir	121.0 AF	121.0 AF

SECTION 7

CLAIM OF BENEFICIAL USE MAP

The Claim of Beneficial Use Map must be submitted with this claim. Claims submitted without the Claim of Beneficial Use map will be returned. The map shall be submitted on poly film at a scale of 1" = 1320 feet, 1" = 400 feet, or the original full-size scale of the county assessor map for the location.

Provide a general description of the survey method used to prepare the map. Examples of possible methods include, but are not limited to, a traverse survey, GPS, or the use of aerial photos. If the basis of the survey is an aerial photo, provide the source, date, series and the aerial photo identification number.

Submerged area, dam and other features were traced using Arc GIS from an aerial photograph obtained from Oregon State University's Oregon Imagery Explorer website (<http://oe.oregonexplorer.info/imagery/index.aspx>). The 2005 aerial photograph has 0.5 meter resolution.



Map Checklist

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Please be sure that the map you submit includes ALL the items listed below.
(Reminder: Incomplete maps and/or claims may be returned.)

- Map on polyester film.
- Appropriate scale (1" = 400 feet, 1" = 1320 feet, or the original full-size scale of the county assessor map)
- Township, Range, Section, Donation Land Claims, and Government Lots
- If irrigation, number of acres irrigated within each projected Donation Land Claims, Government Lots, Quarter-Quarters
- Locations of fish screens, fish by-pass devices, meters and measuring devices in relationship to point of diversion or appropriation.
- Conveyance structures illustrated (pumps, reservoirs, pipelines, ditches, etc.)
- Point(s) of diversion or appropriation (illustrated and coordinates)
- Tax lot boundaries and numbers
- Source illustrated if surface water
- Disclaimer ("This map is not intended to provide legal dimensions or locations of property ownership lines")
- Application and permit number or transfer number
- North arrow
- Legend
- CWRE stamp and signature

**SECTION 8
SIGNATURES**

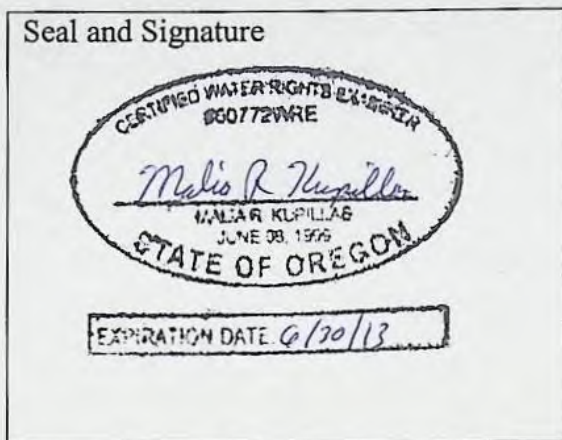
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CWRE Statement, Seal and Signature

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge.



CWRE NAME MALIA R. KUPILLAS/PACIFIC HYDRO-GEOLOGY INC.		PHONE NO. 503-939-3167	ADDITIONAL CONTACT NO. 503-310-5553
ADDRESS 18487 S VALLEY VISTA ROAD			
CITY Mulino	STATE OR	ZIP 97042-8741	E-MAIL PHG@BCTONLINE.COM

Permit Holder's of Record Signature or Acknowledgement

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge. I request that the Department issue a water right certificate.

SIGNATURE	PRINT OR TYPE NAME	DATE
<i>Mark Krautman, Pres. Krautman Family Nursery</i>	<i>Mark Krautman Pres. Krautmans Family Nursery LLC</i>	<i>13 June '11</i>



Oregon

John A. Kitzhaber, M.D., Governor

March 7, 2001

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

Martin G. Boatwright, P.E.
Boatwright Engineering, Inc.
2613 12th Street SE
Salem, OR 97302

Re: Westbrook Dam, (File W-36)
Reservoir Application R-84036, Permit R-12733

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WATER RESOURCES DEPT
SALEM, OREGON

Dear Mr. Boatwright:

Thank you for submitting asbuilt drawings and your accompanying letter certifying completion of the referenced project located in **Section 14, T9S, R3W, Marion County**. Our receipt of these items satisfies the dam safety requirements for construction of the dam and acknowledges the impoundment of water in an amount equal to 141.2 acre-feet @ elevation 359.34', which corresponds to the top of the vertical riser *with the flashboards installed*. Please be advised that Permit R-12733 allows for 121 acre-feet reservoir storage.

Based on the asbuilt drawings, the following physical data was assembled:

Crest primary spillway (vertical riser w/o flashboards)	356.98'
Crest emergency spillway	357.48'
Maximum storage (w/flashboards)	359.34'
Top of dam	362.0'

The height of the embankment at maximum centerline section is approximately 25 feet above natural ground surface. We understand all elevations shown on the asbuilts are NGVD.

We understand all waters used to fill the reservoir originate from a combination of springs and natural runoff. Because the size of the dam and reservoir exceed the established limits for exempt structures (greater than or equal to 10 feet height *and* 9.2 acre-feet storage), this project has been added to the state inventory of dams and reservoirs. As required by statute, the dam will be inspected on a regular basis for purposes of public safety by one or more employees of the Water Resources Department. We have tentatively scheduled the next inspection of this dam for autumn, 2001.

Thank you for your cooperation. We appreciate your efforts to achieve a good quality project. If you have any questions, please do not hesitate to let me know.

Sincerely,

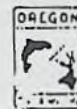
John Falk, PE
Safety of Dams

c: Glen D. Westbrook
OWRD Water Rights Section
Bill Ferber - Watermaster Dist. #16

Oregon

Aug. 12, 1999

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



DEPARTMENT OF
FISH AND
WILDLIFE

Salem District Office

RECEIVED

JUL 07 2011

WATER RESOURCES DEPT
SALEM, OREGON

*S-64037
R-64036*

Re: Permit No. 53603 and R-12733
Westbrook, Glen and Mary
Marion County
Weaver Gulch > Miller Creek: 121 acre feet

ODFW inventoried the site of this proposed reservoir for the presence of fish resources on April 12, 1999. No fish species were present in the north branch of Weaver Gulch, where the reservoir will be located, and existing habitat does not appear to be suitable for supporting trout. Therefore, neither fish passage nor screening will be required at this impoundment.

Sincerely,

Wayne Hunt
Fish Biologist

C: Boatwright Engineering
Glen and Mary Westbrook
Zarnowitz, III



4412 Silverton Road NE
Salem, OR 97305
TEL (503) 378-6925
FAX (503) 378-6233

Oregon Water Resources Department
Water Rights Division



Water Rights Application
Number R-84036

RECEIVED

JUL 07 2011

WATER RESOURCES DEPT
SALEM, OREGON

Final Order
Extension of Time for Permit Number R-12733

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-12733 was issued by the Department on July 30, 1999. The permit called for complete application of water to beneficial use by October 1, 2003. On June 30, 2009 Mark Krautman submitted to the Department an Application for Extension of Time for Permit R-12733. In accordance with OAR 690-315-0050(2), on March 30, 2010 the Department issued a Proposed Final Order proposing to extend the time to apply water to full beneficial use to October 1, 2010. The protest period closed May 14, 2010 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.

2. **Last Extension Condition**

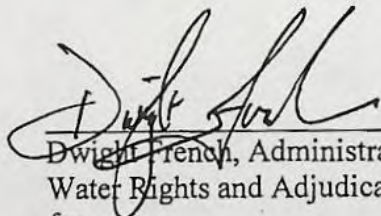
This is to be the last extension of time granted for Permit G-12733. Any future extensions of time requests will be denied.

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-84036, Permit R-12733, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use is extended to October 1, 2010.

DATED: June 22, 2010


Dwight French, Administrator of
Water Rights and Adjudications
for
Phillip C. Ward, Director

RECEIVED

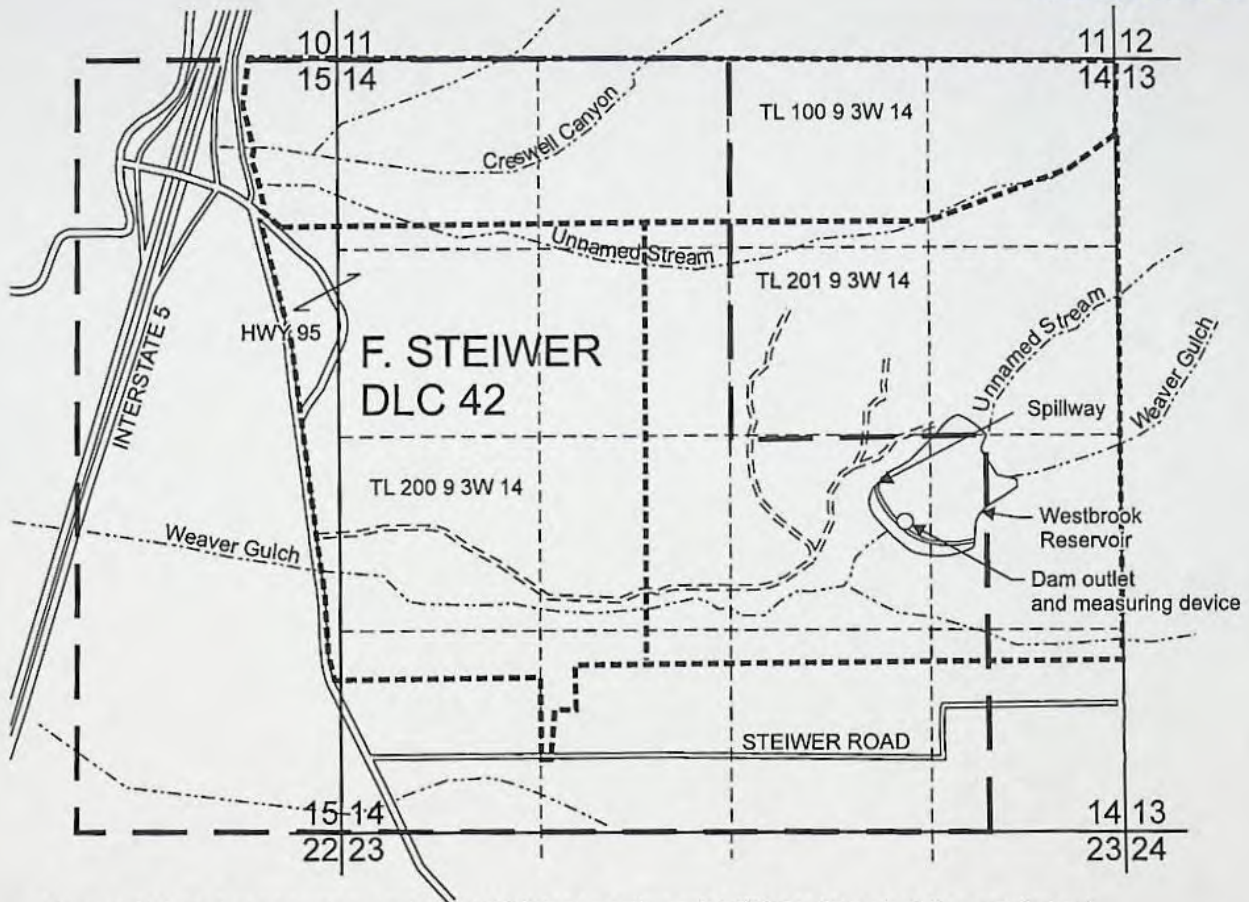
JUL 07 2011

**WATER RESOURCES DEPT
SALEM, OREGON**

-
- 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
-

T.9S. R.3W. Section 14, W.M.

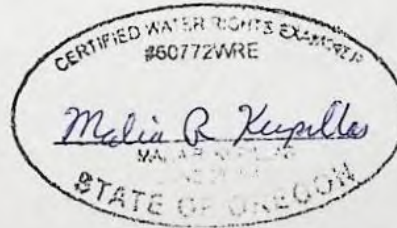
RECEIVED
 JUL 07 2011
 WATER RESOURCES DEPT
 SALEM, OREGON



Dam outlet and measuring device - 2100 feet north and 1470 feet west of the southeast corner of Section 14

Westbrook Reservoir - 121.0 AF, Application R-84036, Permit R-12733, and 20.2 AF, Application R-84703, Permit R-13367

----- Tax lot boundary



EXPIRATION DATE 6/30/2013

Scale: 1" = 1,320'



This map was prepared for the purpose of identifying the location of a water right only and is not intended to provide legal dimensions or location of property ownership lines.



Claim of Beneficial Use Map
 Application R-84036, Permit R-12733
 Application R-84703, Permit R-13367

Krautmann Family Nursery LLC
 Tax Lot 201 9 3W 14

Pacific Hydro-Geology Inc.

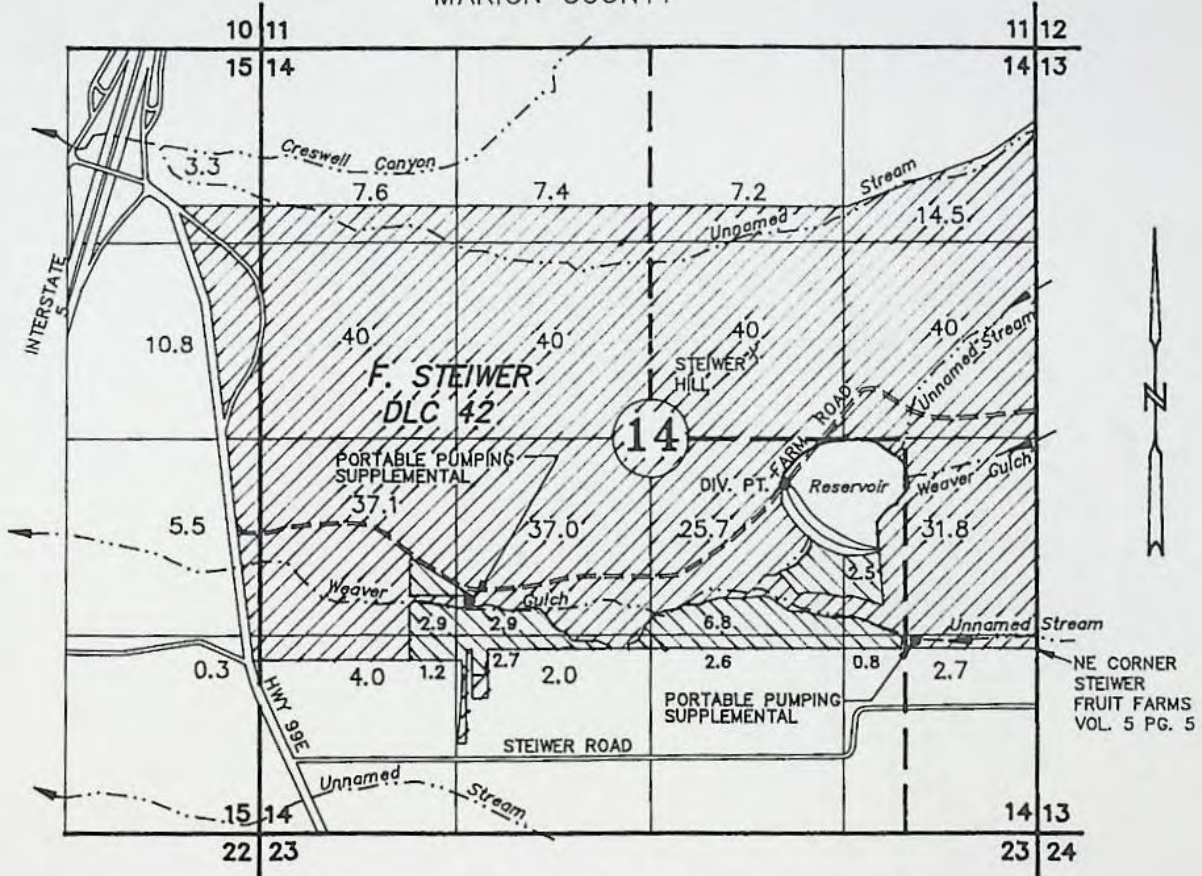
6/2011 - bgp

RECEIVED

JUN 15 1999

WATER RESOURCES DEPT.
SALEM, OREGON

T.9S. R.3W. W.M.
MARION COUNTY



TEXT SIZE AREA
 2.9 SUPPLEMENTAL
 4.0 PRIMARY

DIV. PT. LOCATION (PUMP): NW 1/4 SE 1/4, SEC. 14;
 1105' N AND 1725' WEST OF NE COR. STEIWER FRUIT FARMS

APPLICATION FOR APPROPRIATION OF SURFACE WATER

SUPPLEMENTAL



R-22915

R-916

22916

18066

R-84036

S-84037



Application No. _____

Permit No. _____

GLENN AND MARY WESTBROOK

JANUARY 08, 1999

SCALE 1" = 1320'

NOTE: This map is for the purpose of identifying the location of water rights and has no intent to dimension or locate property ownership lines.

REVISED: APRIL 08, 1999

REVISED: APRIL 30, 1999





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

October 1, 2004

Heritage Seedlings, Inc.
4194 71st. Avenue S.E.
Salem, Oregon 97301

Reference: Application R-84036, Permit R-12733
Application S-84037, Permit S-53603

The assignment from Glen D. and Mary L. Westbrook to Krautmann Family Nursery LLC., has been recorded in the records of the Water Resources Department.

Our records have been changed accordingly and the original request is enclosed. Receipt number 70454 covering the recording fee of \$25.00 is also enclosed.

Sincerely,

Jerry Sauter
Water Rights Program Analyst

Enclosure: receipt 70454

cc: Watermaster 16
Glen D. Westbrook
Krautmann Family Nursery LLC
Data Center, OWRD
Mary Rohling
File

Oregon

Aug. 12, 1999

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



DEPARTMENT OF
FISH AND
WILDLIFE

Salem District Office

S-84037
R-84036
Re: Permit No. 53603 and R-12733
Westbrook, Glen and Mary
Marion County
Weaver Gulch > Miller Creek; 121 acre feet

ODFW inventoried the site of this proposed reservoir for the presence of fish resources on April 12, 1999. No fish species were present in the north branch of Weaver Gulch, where the reservoir will be located, and existing habitat does not appear to be suitable for supporting trout. Therefore, neither fish passage nor screening will be required at this impoundment.

Sincerely,

A handwritten signature in cursive script that reads "Wayne L. Hunt".

Wayne Hunt
Fish Biologist

C: Boatwright Engineering
Glen and Mary Westbrook
Zarnowitz, III



4412 Silverton Road NE
Salem, OR 97305
(503) 378-6925
FAX (503) 378-6233



Oregon

John A. Kitzhaber, M.D., Governor

March 7, 2001

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

Martin G. Boatwright, P.E.
Boatwright Engineering, Inc.
2613 12th Street SE
Salem, OR 97302

Re: Westbrook Dam, (File W-36)
Reservoir Application R-84036, Permit R-12733

Dear Mr. Boatwright:

Thank you for submitting asbuilt drawings and your accompanying letter certifying completion of the referenced project located in **Section 14, T9S, R3W, Marion County**. Our receipt of these items satisfies the dam safety requirements for construction of the dam and acknowledges the impoundment of water in an amount equal to 141.2 acre-feet @ elevation 359.34', which corresponds to the top of the vertical riser *with the flashboards installed*. Please be advised that Permit R-12733 allows for 121 acre-feet reservoir storage.

Based on the asbuilt drawings, the following physical data was assembled:

Crest primary spillway (vertical riser w/o flashboards)	356.98'
Crest emergency spillway	357.48'
Maximum storage (w/flashboards)	359.34'
Top of dam	362.0'

The height of the embankment at maximum centerline section is approximately 25 feet above natural ground surface. We understand all elevations shown on the asbuilts are NGVD.

We understand all waters used to fill the reservoir originate from a combination of springs and natural runoff. Because the size of the dam and reservoir exceed the established limits for exempt structures (greater than or equal to 10 feet height *and* 9.2 acre-feet storage), this project has been added to the state inventory of dams and reservoirs. As required by statute, the dam will be inspected on a regular basis for purposes of public safety by one or more employees of the Water Resources Department. We have tentatively scheduled the next inspection of this dam for autumn, 2001.

Thank you for your cooperation. We appreciate your efforts to achieve a good quality project. If you have any questions, please do not hesitate to let me know.

Sincerely,

John Falk, PE
Safety of Dams

c: Glen D. Westbrook
OWRD Water Rights Section
Bill Ferber - Watermaster Dist. #16



2004

APP 5-12501

Oregon Water Resources Department
 October 2004 through September 2005
 Annual Water Use - Monthly Quantities Form

APP 5-53892

USER-ID 27709

2005

Facility Report ID →	OLD FIELD 61454 ✓	RANNEY COLLECTOR 52297 (Nov-April; Nursery Use) ✓			
October - 2004	964,050				
November - 2004	0	1,655,083			
December - 2004	0	1,655,083			
January - 2005	0	1,655,083			
February - 2005	0	1,655,083			
March - 2005	0	1,655,083			
April - 2005	320,493	1,655,083			
May - 2005	320,493				
June - 2005	320,493				
July - 2005	320,493				
August - 2005	320,493				
September - 2005	320,493				
TOTAL	2,887,007 G	9,930,500 G			

* Describe the units of measurement as G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)

Describe the method of measurement used: (meter) If used for irrigation, total number of acres irrigated: (11.2)

I certify this information is true and accurate to the best of my knowledge.

Lynda Boyer; Data Manager; 12-31-08
 4194 71st Ave SE, Salem OR 97317, 503-585-9835 (ph)

RECEIVED

JAN 07 2009

Please complete and mail to: Oregon Water Resources Department; Water Use Reporting Program;
 725 Summer Street NE, Suite A; Salem, OR 97301-1266.

WATER USE REPORT

2005

Oregon Water Resources Department
 October 2005 through September 2006
 Annual Water Use - Monthly Quantities Form

USER-ID 27704

2006

Facility Report ID →	CRAVO WELL 63034 ✓	RANNEY COLLECTOR 52297 (Nov-April; Nursery Use) ✓			
October - 2005	104,674				
November - 2005	104,674	2,684,583			
December - 2005	104,674	2,684,583			
January - 2006	104,674	2,684,583			
February - 2006	104,674	2,684,583			
March - 2006	104,674	2,684,583			
April - 2006	104,674	2,684,583			
May - 2006	104,674				
June - 2006	104,674				
July - 2006	104,674				
August - 2006	104,674				
September - 2006	104,674				
TOTAL	1,256,090 G	16,107,500 G			

* Describe the units of measurement as G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)

Describe the method of measurement used: (meter) If used for irrigation, total number of acres irrigated: (11.2)

I certify this information is true and accurate to the best of my knowledge.

Lynda Boyer; Data Manager; 12-31-08
 4194 71st Ave SE, Salem OR 97317, 503-585-9835 (ph)

Please complete and mail to: Oregon Water Resources Department; Water Use Reporting Program;
 725 Summer Street NE, Suite A; Salem, OR 97301-1266.

RECEIVED

JAN 07 2009

WWW.OREGONWATERRESOURCESDEPT.COM



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

KRAUTMAN FAMILY NURSERY, LLC
MARK KRAUTMAN
4199 75TH AVE SE
SALEM, OR 97301-9242

REFERENCE: Application R-84036 / Permit R-12733

Dear Permit Holder:

The Water Rights and Adjudications Division received your written progress report for Permit R-12733. 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,

Ann Reece
Extensions
Water Rights Services Division

Enclosure

cc: Application R-84036
Watermaster District 16 – Mike McCord



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

Fax 503-986-0904

**Extension of Time
 Progress Reporting Form
 For Checkpoints**

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: Mark Krautman

Application R-84036

Permit R-12733

Report Due no later than October 1, 2010

RECEIVED
 MAY 03 2011

Progress Report Form for 2010

WATER RESOURCES DEPT
 SALEM, OREGON

As authorized in ORS 690-315-0050(6), this progress report is required in order to ensure diligence is exercised in the development and perfection of Permit R-12733

INSERT DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between October 1, 2003 and October 1, 2010	FINANCIAL INVESTMENT
2008-09	Maintenance 6" installed for gravity-fed irrigation from reservoir to SW farm corner. Drip irrigation of acres of nursery stock, hybrid cabbage seed, and landscape trees along nursery roads. Drip irrigation of trees along Jefferson Hwy also.	+/- \$17,500 ⁰⁰ Seventeen thousand 500 ⁰⁰

2.

Compliance with terms and conditions of the permit and/or previous extension.

A) We have installed suitable measuring device to allow monthly recordings of water levels.

B) We reported the amount of water stored for each month in February 2010 and 2011.

RECEIVED
 OCT 04 2010

3. Total number of acres irrigated to date = 45 AC (if applicable)

WATER RESOURCES DEPT
 SALEM, OREGON

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 = 350 (estimate) gpm (gallons per minute), or

Acre Feet stored to date = 112 AF

6" pipe,
 30psi flow
 - 6 weeks -

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 Mark Krautman Date Sept 29 '10

For OWRD use only

Diligence Shown Yes No

Date Public Noticed: 6-14-2011

Reviewed by: ALP

Date: 7-29-2011

Route Slip.....Extension of Time Progress Report

1. Extension Specialist: Progress Report Review

Date Report Received: 5-3-2011

Report Complete: YES

2. Jonnine: Publish on the Department's Public Notice

315 OAR Division under which Progress Report was required

- Publish on Public Notice Date: 6/14/11 JRS
- Update workflow in WRIS (Fill in Extension Checkpoint 'Completed Date' in appropriate work flow record) 2010
- 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: KRAUTMANN FAMILY NURSERY, LLC ATTN: MARK KRAUTMAN

Application: R-84036

Permit: R-12733

County: Marion

Source: Weaver Gulch and an Unnamed Stream, Tributaries of Miller Creek

Use: Storage in Westbrook Reservoir for Irrigation and Recreation to be Appropriated Under Permit S-53603

Oregon Water Resources Department
Water Rights Division



Water Rights Application
Number R-84036

Final Order
Extension of Time for Permit Number R-12733

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-12733 was issued by the Department on July 30, 1999. The permit called for complete application of water to beneficial use by October 1, 2003. On June 30, 2009 Mark Krautman submitted to the Department an Application for Extension of Time for Permit R-12733. In accordance with OAR 690-315-0050(2), on March 30, 2010 the Department issued a Proposed Final Order proposing to extend the time to apply water to full beneficial use to October 1, 2010. The protest period closed May 14, 2010 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.

2. **Last Extension Condition**

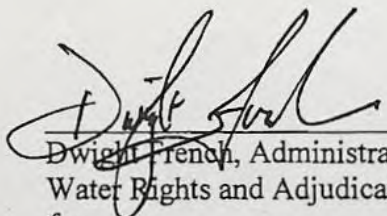
This is to be the last extension of time granted for Permit G-12733. Any future extensions of time requests will be denied.

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-84036, Permit R-12733, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use is extended to October 1, 2010.

DATED: June 22, 2010


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
-



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 12, 2011

Krautmann Family Nursery, LLC
4194 71st Ave SE
Salem OR 97301

On July 7, 2011, the Water Resources Department received the Claim of Beneficial Use (COBU) for the following file(s):

Application R-84036 Permit R-12733

The COBU included a report and map. In the future the Department will review your submittal. At that time we will review these items and provide a final certificate, proposed certificate, or a request for additional information.

If you are interested in having your COBU 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

Customer Service phone: (503) 986-0801

If you sell the property, please contact the Department, or have the new owners contact the Department about the need to file an assignment.

Enclosed is a photocopy of the original receipt that was given to your agent.



Oregon

John A. Kitzhaber, MD, 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

April 24, 2011

KRAUTMANN FAMILY NURSERY LLC
MARK KRAUTMANN
4199 75TH AVE SE
SALEM, OR 97301-9242

REFERENCE: Application R-84036 (Permit R-12733)

Dear Permit Holder:

We appreciate your efforts in complying with the terms and conditions of your Extension of Time for Permit R-12733 as demonstrated in your filing of a progress report.

However, the Department has determined one item is not sufficiently addressed. In order to comply with the extension of time condition to submit a progress report, the following information regarding **compliance with terms and conditions of the permit** must be received by the Department. The following deficiency had been noted in the Proposed Final Order issued March 30, 2010:

Compliance with Conditions [OAR 690-315-0040(3)(c)]

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) the record does not show that a suitable measuring device has been installed, (2) the record does not show that annual reports of the amount of water used each month have been received by the Department.
- 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.

Please submit information by **May 24, 2011** explaining how these conditions have been met.

Failure to submit the requested information by this deadline may result in the Department pursuing actions to cancel the undeveloped portion of the permit pursuant to ORS 537.260 or ORS 537.410 to 537.450. Within one year after cancellation, the permittee must submit a Claim of Beneficial Use and Final Proof Survey, pursuant to ORS 537.230 and 537.250, for the portion of the permit developed as October 1, 2003.

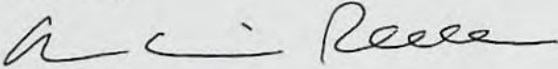
If you need to request additional time to submit the information requested above, a written



request must be received in the Salem office of the Department by the deadline above. The Department will evaluate timely requests and determine whether or not the request may be granted.

If you have any questions concerning the Department's request for additional information, you may contact me by telephone at (503) 986-0827.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann L. Reece". The signature is fluid and cursive, with the first name "Ann" and last name "Reece" clearly legible.

Ann L. Reece

Water Rights Services Division

cc: Application R-84036
Mike McCord, Watermaster District # 16



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

Fax 503-986-0904

**Extension of Time
 Progress Reporting Form
 For Checkpoints**

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: Mark Krautman

Application R-84036
 Permit R-12733

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-12733

INSERT DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between October 1, 2003 and October 1, 2010	FINANCIAL INVESTMENT
2008-09	Mainline 6" installed for gravity-fed irrigation from reservoir to SW farm corner. Drip irrigation of acres of nursery stock, hybrid cabbage seed, and landscape trees along nursery roads. Drip irrigation of trees along Jefferson Hwy also.	1/2 \$17,500 ⁰⁰ Seventeen thousand 500 ⁰⁰

2. Compliance with terms and conditions of the permit and/or previous extension.

RECEIVED

OCT 04 2010

3. Total number of acres irrigated to date = 45 AC (if applicable)

WATER RESOURCES DEPT
 SALEM, OREGON

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 = 350 ^(estimate) gpm (gallons per minute), or

Acre Feet stored to date = 112 AF

6" pipe,
 30psi flow
 - 6 weeks -

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 Mark Krautman

Date Sept 29 '10

For OWRD use only

Diligence Shown Yes No

Date Public Noticed: _____

Reviewed by: _____

Date: _____

**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-12733, Water Right Application R-84036) PROPOSED FINAL ORDER
in the name of Mark Krautman.)

Permit Information

Application File R-84036 Permit R-12733

Basin: 2 – Willamette / Watermaster District 2

Date of Priority: January 7, 1999

Authorized Use of Water

Source of Water: Weaver Gulch and an unnamed stream, tributaries of Miller Creek
Purpose of Use: Stored Water: Recreation, and to be appropriated under Permit S-53603 for Irrigation
Maximum Rate: 121.0 Acre-Feet (AF) per year, each year, being 16.0 acre-feet for recreation and 105.0 acre-feet for irrigation.

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-12733, water right Application R-84036. A copy of Permit R-12733 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, 2003 to October 1, 2010.
- 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(5) states that extension orders may include, but are not limited to, any condition or provision needed to: ensure future diligence; mitigate the effects of the subsequent development on competing demands on the resource; and periodically document the continued need for the permit.

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-12733 was granted by the Department on July 30, 1999 and assigned on September 24, 2004. The permit authorizes the storage of up to 121.0 AF of water per year, each year, being 16.0 AF for recreation and 105.0 AF for irrigation, in Westbrook Reservoir, from Weaver Gulch and an unnamed stream, tributaries of Miller Creek. The permit specified complete application of water was to be made on or before October 1, 2003.
2. The permit holder submitted an "Application for Extension of Time" to the Department on June 30, 2009 requesting the time to apply water to full beneficial use under the terms of Permit R-12733 be extended from October 1, 2003 to October 1, 2010. This is the first permit extension requested for Permit R-12733.
3. Notification of the Application for Extension of Time for Permit R-12733 was published in the Department's Public Notice dated July 7, 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 537.230¹, 537.248² and/or 539.010(5)³.

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

4. On June 30, 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 July 30, 2000 deadline specified in the permit. The permit errorously states actual construction must start before July 30, 1999. The Dept. has acknowledged this typographical error

¹ORS 537.230 applies to surface water permits only.

²ORS 537.248 applies to reservoir permits only.

³ORS 539.010(5) applies to surface water and ground water permits.

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 June 30, 2009 the remaining work to be completed consists of installing a suitable measuring device, submitting annual report of monthly water use, 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, 2010 to accomplish the application of water to beneficial use under the terms and conditions of Permit R-12733 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 July 30, 2000 deadline specified in the permit.
 - b. Work completed (specified in the Application for an Extension of Time) during the original development time frame under Permit R-12733 includes complete construction of Westbrook Reservoir.

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-12733 on July 30, 1999, the permit holder has not stored any water in Westbrook Reservoir, for irrigation or recreation
 - b. The permit holder has offered no explanation why full beneficial use of water under Permit R-12733 has been delayed.

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 concerns: (1) the record does not show that a suitable measuring device has been installed, (2) the record does not show that annual reports of the amount of water used each month have been received by the Department.
 - 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 June 30, 2009 the permit holder has invested approximately \$100,200 which is approximately 99 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional \$200.00 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 June 30, 2009 the permit holder has invested approximately \$100,200 which is approximately 99 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional \$200.00 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-12733.

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-12733; 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 points of diversion are located on Weaver Gulch and an unnamed stream, tributaries of Miller Creek. Weaver Gulch and the unnamed stream, are not located within or above any state or federal scenic waterway, are located within an area ranked "low" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and are located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife. Miller 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 June 30, 2009 the permit holder has invested approximately \$100,200
 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.
 19. OAR 690-315-0050(5) provides for extension orders to include, but are not limited to, any condition or provision needed to ensure future diligence, and/or mitigate the effects of the subsequent development on competing demands on the resource. The Department determined the need to place a "Last Extension Condition" on this extension of time in order to ensure diligence is exercised in the development and perfection of the water use permit. This condition is specified under Item 2 of the "Conditions" section of this PFO.

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

20. 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)]

21. Delay in the development of this project was not caused by any other governmental requirements.

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

22. Unforeseen events extended the length of time needed to fully develop and perfect Permit R-12733, in that the permit holder misunderstood the permit condition regarding installation of a staff gage to measure reservoir depth.

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, 2010⁴, 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-12733.

⁴Pursuant 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.

7. As authorized in OAR 690-315-0050(5) and as described in Finding 19 above, the Department has established, as specified in the "Conditions" section of this PFO (Item 2), a "Last Extension Condition" in order to ensure future diligence is exercised in the development and perfection of Permit G-12733.

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-12733 from October 1, 2003 to October 1, 2010.

Subject to the following conditions:

CONDITIONS

1. **Checkpoint Condition**

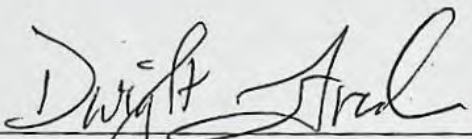
The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2010. A form will be enclosed with your Final Order.**

- (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.

2. **Last Extension Condition**

This is to be the last extension of time granted for Permit G-12733. Any future extensions of time requests will be denied.

DATED: March 30, 2010


Dwight French
Administrator
Water Rights & Adjudications 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 **May 14, 2010** 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
Salem, OR 97301-1266
- Fax: 503-986-0901
-



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

A separate extension application must be submitted for each 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, Mark Krautman
FIRST NAME OF PERMIT HOLDER LAST NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

4194 71st Avenue SE
ADDRESS

Salem OR 97301
CITY STATE ZIP

503-585-9835
PHONE EMAIL ADDRESS

the permit holder of: Application Number R - 84036
 Permit Number R - 12733

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, 2004, be extended to October 1, 2010,

and/or the time in which to:
 apply water to full beneficial use under the terms and conditions of the permit, which time now expires on October 1, 2004, be extended to October 1, 2010.

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Application for Extension of Time for a Water Right Permit
 Page 1 of 9

Last Revised 9/19/2008

WATER RESOURCES DEPT
 SALEM, OREGON

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**



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*, available at the following link:
http://www1.wrd.state.or.us/pdfs/muni_quasi_ext_app_form_6_20_08.pdf
- 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> .

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Application for Extension of Time for a Water Right Permit
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**WATER RESOURCES DEPT
SALEM, OREGON**

- 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



TIP: Not all permits specify a date by which construction was to begin.

Date construction began is: Aug 1999

Details of construction:

See as-built drawings.

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

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Application for Extension of Time for a Water Right Permit
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WATER RESOURCES DEPT
SALEM, OREGON

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]

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. B.	10-29-99	No restriction has been placed on water master access.
2	10-29-99	No riparian areas were disturbed.
3	10-29-99	The ODFW exempted the fish screen requirement for the reservoir (ODFW letter 8/12/99).
4	10-29-99	The March 3, 2009 site inspection by the CWRE showed the outlet gate to be in good condition.
5	10-29-99	The March 3, 2009 site inspection by the CWRE showed no trees or brush on the dam, and no erosion.
6, 7, 8, 9, 10	10-29-99	The as built drawings show that the dam construction complies with state regulations for safety and water storage.

** 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
1. A.	July 1, 2009	

** 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)]

Last Revised 9/19/2008

WATER RESOURCES DEPT
SALEM, OREGON

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

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED <i>List any work done before the permit was issued - eg. well drilled.</i>	COST*
	none	

DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED and PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER <i>List work/actions done during the permitted time period.</i>	COST*
July 30, 1999	The permit was signed - find date above signature on last page of permit.	
July 30, 1999	The permit specified "Actual Construction Work" shall begin ("A-Date") - not all permits contain this date.	\$100,000
Oct 29, 1999	Reservoir construction complete (date of record on as-built drawing).	unknown
10/1/2003	The permit specified complete application of water to the use shall be made ("C-Date")- all permits contain this date.	

CHART-C (continued)

DATE	WORK ACCOMPLISHED AFTER "C-DATE" <i>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.</i>	COST*
7/1/2009	Measure water levels in reservoir.	\$200
	Total cost for Chart-C	\$200

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

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- 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

DATE	WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD <i>List all work done during the last authorized extension period.</i>	COST*
10/1/____	"Extended From" date for complete application of water used in the 1st (or the most recent) Application for Extension of Time.	
10/1/____	"Extended To" date for complete application of water resulting from the 1st (or the most recent) Application for Extension of Time.	

CHART-D (Continued)

DATE	WORK ACCOMPLISHED AFTER THE LAST EXTENSION PERIOD EXPIRED <i>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.</i>	COST*
Total Cost of Chart-D		

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

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

\$100,200

4. Cost of project to date: unknown
(The total combined cost from CHART-C and CHART-D)

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5. Provide the maximum rate, or duty, of water diverted for beneficial use under this permit, 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 volume totals.

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

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

Acre-feet to date = NA AF

6. Provide the total number of acres irrigated to date under this permit (if applicable).

Total acres irrigated to date: NA

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)
7/1/09 - 10/1/10	Measure water-levels monthly in the reservoir and submit an annual report to the OWRD.	\$200
Year: 2009	Intend to apply water to full beneficial use under the terms and conditions of this permit.	
Total Cost		\$200

8. Estimated remaining cost to complete the project: \$200
(The total cost from CHART-E)

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JUN 30 2009 Application for Extension of Time for a Water Right Permit
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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, B, C or D).

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.

not applicable

B) The financial resources needed to develop the project precluded completion of the project within authorized time frames.

not applicable

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.

The wording of the permit condition requiring the installation of a meter or other suitable measuring devise was unclear. The permittee misunderstood the condition to mean that he was to measure water pumped for irrigation. The OWRD (email dated 5-15-09) clarified that the intent of the condition was for the permittee to take monthly water-level measurements in the reservoir via email on 5-15-09.

- D) Acts of God or other unforeseen events delayed full development of the water system and use of water within the authorized time frames.

none

- [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.

The extension of one year will allow the permittee the time to collect a year's worth of monthly water-level measurements and submit an annual water-level report to the OWRD.

RECEIVED

JUN 30 2009

WATER RESOURCES DEPT
SALEM, OREGON

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

The language in the permit condition was unclear. The condition should clearly state that the permittee is to install a staff gage to measure water-level elevations in the reservoir. We did not own the land at the time the reservoir was built. Therefore, we do not have any idea for the cost to build the reservoir, which was 10 years ago.

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.

Mark Krant

Signature

June 30 '09

Date

Oregon Water Resources Department
Water Rights Division



Water Rights Application
Number R-84036

Final Order
Extension of Time for Permit Number R-12733

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-12733 was issued by the Department on July 30, 1999. The permit called for complete application of water to beneficial use by October 1, 2003. On June 30, 2009 Mark Krautman submitted to the Department an Application for Extension of Time for Permit R-12733. In accordance with OAR 690-315-0050(2), on March 30, 2010 the Department issued a Proposed Final Order proposing to extend the time to apply water to full beneficial use to October 1, 2010. The protest period closed May 14, 2010 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.

2. **Last Extension Condition**

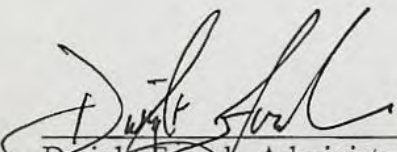
This is to be the last extension of time granted for Permit G-12733. Any future extensions of time requests will be denied.

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-84036, Permit R-12733, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use is extended to October 1, 2010.

DATED: June 22, 2010


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: June 22, 2010

Copies Mailed

**Application R-84036
Permit R-12733**

By: MS
On: 6/22/10

Original mailed to permit holder

Mark Krautman
4194 71st Avenue SE
Salem, OR 97301

Copies sent to:

1. WRD - App. File R-84036/ Permit R-12733
2. WRD - George Robison, Dam Safety
3. ~~WRD - Support Staff, Salem~~

Fee paid as specified under ORS 536.050 to receive copy:

4. None

Receiving via e-mail (10 AM day of signature date)

5. WRD - Water Master District 16 - Mike McCord, Salem

Done by _____ Date _____

If Progress Reports are included:

Add record to Progress Report tracking sheet.xls Done: by SR Date 6/21/10

CASEWORKER: SBK

Mailing List for Extension PFO Copies

PFO Date: March 30, 2010

**Application R-84036
Permit R-12733**

Copies Mailed

By: MS
On: 3/30/10

Original mailed to Applicant:

Mark Krautman
4194 71st Avenue SE
Salem, OR 97301

Copies sent to:

1. WRD - App. File R-84036/ Permit R-12733

Fee paid as specified under ORS 536.050 to receive copy:

2. None

Receiving via e-mail (10 AM Tuesday of signature date)

3. None

4. PFO: WRD – Watermaster District 16 – Mike McCord, Salem

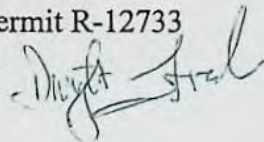
Done by ga Date 3/30/10

CASEWORKER: SBK

MEMO

TO :FILE R-84036, permit R-12733

From: Dwight French



March 16, 2010

RE: "A" Date

There was a typographical error in the permit. The permit issuance date and the beginning of construction deadline date are both listed as July 30, 1999. Consistent with the application and the PFO the A date should have been July 30, 2000. The WRD will consider the A date to be July 30, 2000.

Application # R-84036

Permit # R-12733

Public Notice Route Slip ... New Application Extension of Time
per Division 315 Rules... (Extensions received on July 1, 2001 or after)

◆ WRIG...
Money Received on: 6/30/09

- ◆ 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 7/7/09
 - 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

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # **96993**

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

INVOICE # 2-84036

RECEIVED FROM: Heritage Seedlings Inc.
 BY: _____

APPLICATION	R-84703
PERMIT	
TRANSFER	

CASH: CHECK:# 5670 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

MISCELLANEOUS
 0407 COPY & TAPE FEES 4611 350 x 2 \$
 0410 RESEARCH FEES \$
 0408 MISC REVENUE: (IDENTIFY) **RECEIVED** \$
 TC162 DEPOSIT LIAB. (IDENTIFY) **OVER THE COUNTER** \$
 0240 EXTENSION OF TIME \$ 700.00

WATER RIGHTS:
 0201 SURFACE WATER EXAM FEE \$ 0202 RECORD FEE \$
 0203 GROUND WATER \$ 0204 \$

WELL CONSTRUCTION EXAM FEE \$
 0218 WELL DRILL CONSTRUCTOR \$ 0219 LICENSE FEE \$
 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: **96993**

DATED: 6-30-09 BY: J. Bell



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

July 7, 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-84036 (PERMIT#: R-12733)**. 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".

Extension PFO Checklist for Other than Muni or Quasi-Municipal

Water Use Permits

(OAR 690-315-0010 through OAR 690-315-0060)

Application: R- 84036 Permit: R- 12733 Permit Amendment? No Yes T- _____ pending approved

Permit Holder's Name: Mark Krautman

Permit Holder's Mailing Address: 4194 71st Ave Salem, OR 97031 email _____

Phone Number: 503-585-9835

POD Location: Township 9 SOUTH Range 3 WEST Section 14 $\frac{1}{4}$ NWSE

Drainage Basin: 2 County: Marion Watermaster District: 16 Watermaster: Mike McCord

Date Permit was issued: 7/30/1999

Priority Date: 1/7/1999

Date of PN: 7/7/2009

Source: Weaver Gulch and an unnamed stream, tributaries of Miller Creek

Use: Irrigation and recreation. Recreation, to be appropriated under permit S-53603 for irrigation

"Q": 121AF per year, each year, being 16.0 AF for recreation and 105 AF for irrigation

Orig "A" Date: 7/30/1999

Orig "B" Date: 10/1/

Orig "C" Date: 10/1/2003

Extension request rec'd: 6/30/2009

Last Authorized "B" Date: 10/1/

Last Authorized "C" Date: 10/1/2003

Request Number (1, 2, 3...): 1

Proposed "B" Date: 10/1/

Proposed C Date: 10/1/2003 2010

Conditions of Permit:

Condition Met?	Condition Not Met?	Permit Condition
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Install Meter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Submit annual water use records
<input checked="" type="checkbox"/>	<input type="checkbox"/>	riparian areas undisturbed
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fish screen exemption from ODFW
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Outlet gate and routine maintenance in good order

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: \$100,200 Estimated Remaining Cost: \$200

- Beneficial use made of the water during the permit or previous extension time limits

- Permit holder has beneficially used 0 cfs gpm af of the total permitted quantity of water on 0 acres

Has 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? 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: **2010**)

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: _____ Date: _____

Herb Mosgar

From: Malia Kupillas [phg@bctonline.com]
Sent: Sunday, November 30, 2008 8:59 PM
To: Herb Mosgar
Subject: As-Builts for two reservoirs

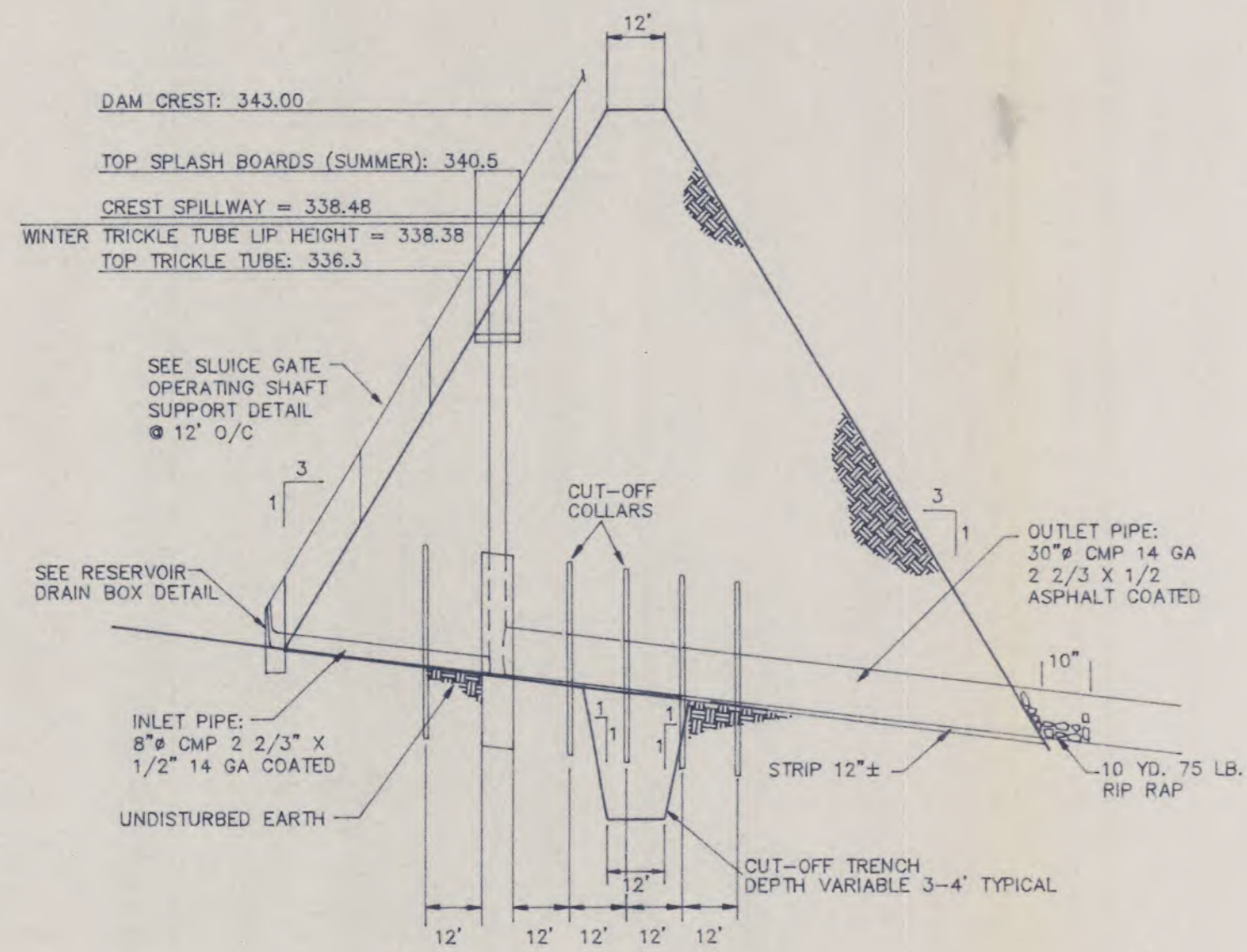
Hi Herb:

I would like to come to Salem Tuesday, December 2 to look at the As-Builts for two reservoirs. The reservoirs were constructed under Applications R-33422 (Lloyd M. Hill) and R-84036 (Glenn Westerbrook). Please let me know if you need more time to obtain these files.

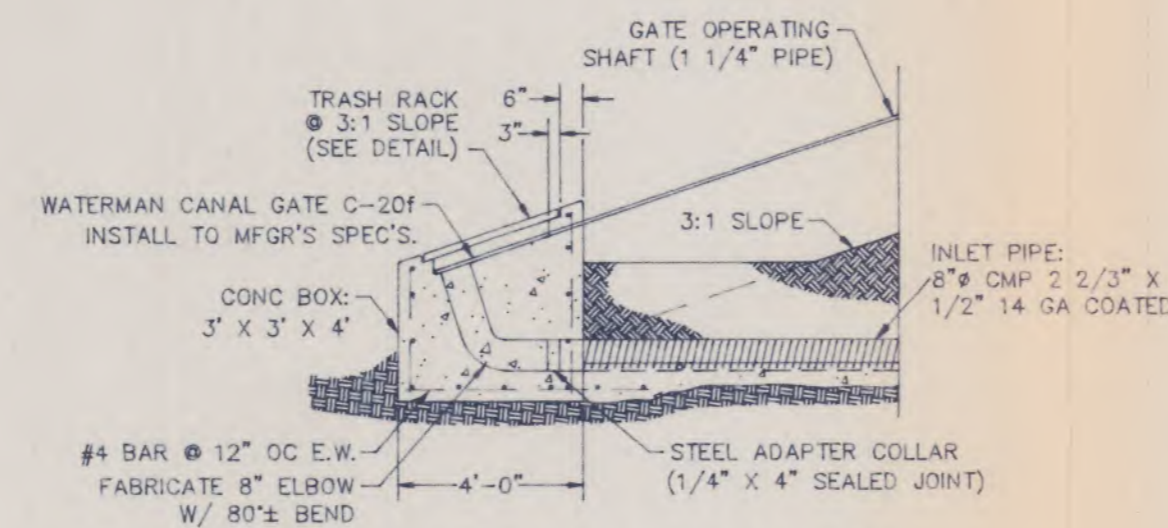
Malia Kupillas, R.G., C.W.R.E.

Pacific Hydro-Geology Inc.
18487 S. Valley Vista Rd.
Mulino, OR 97042
503.632.5016

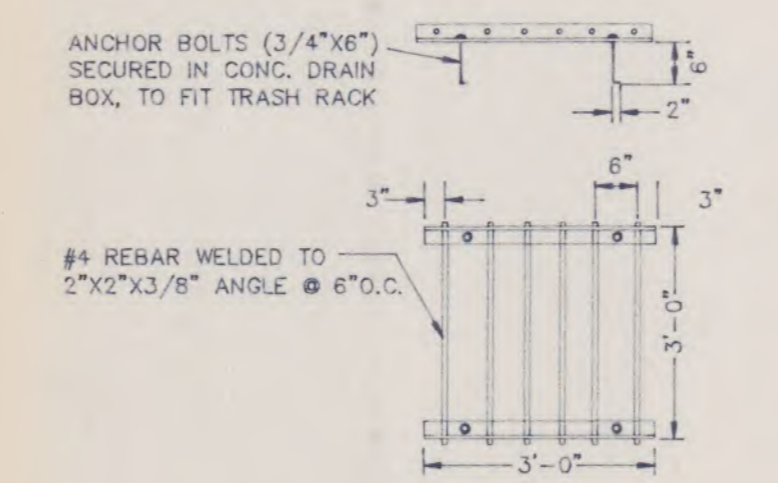
W-36



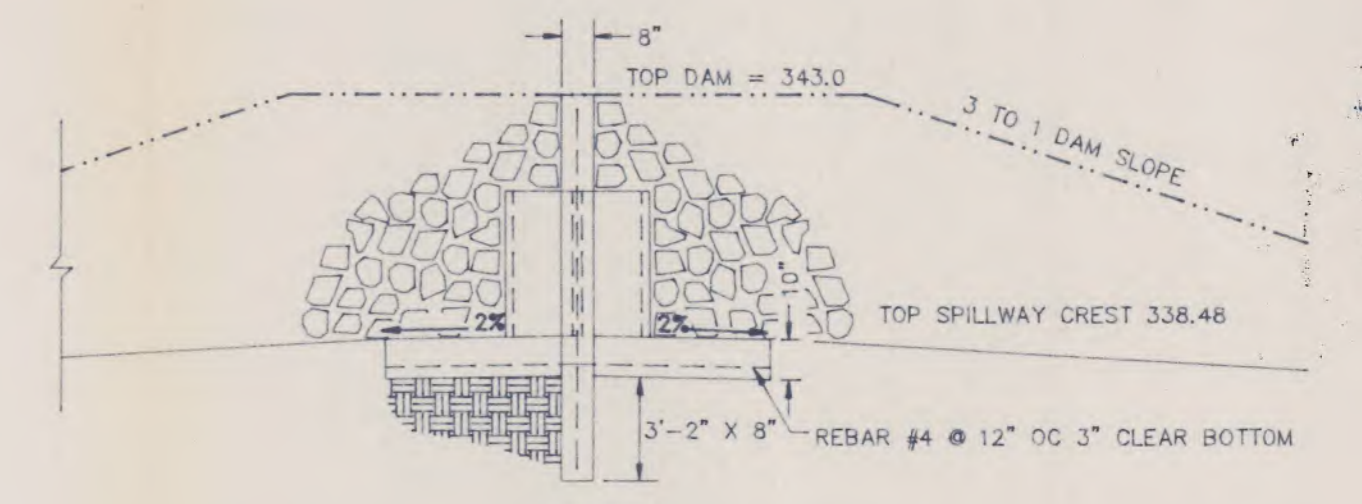
TYPICAL DAM SECTION
 NOT TO SCALE



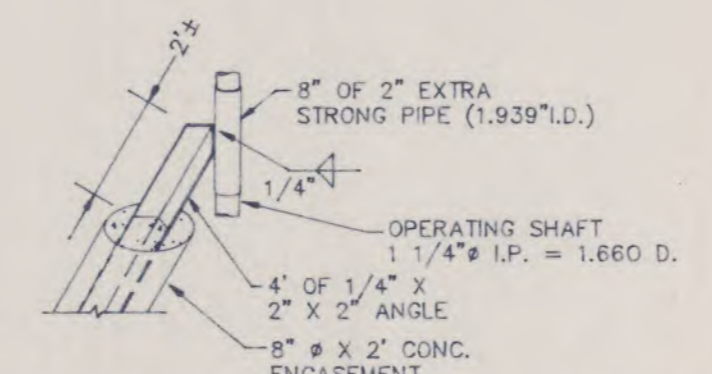
RESERVOIR DRAIN BOX DETAIL
 NOT TO SCALE



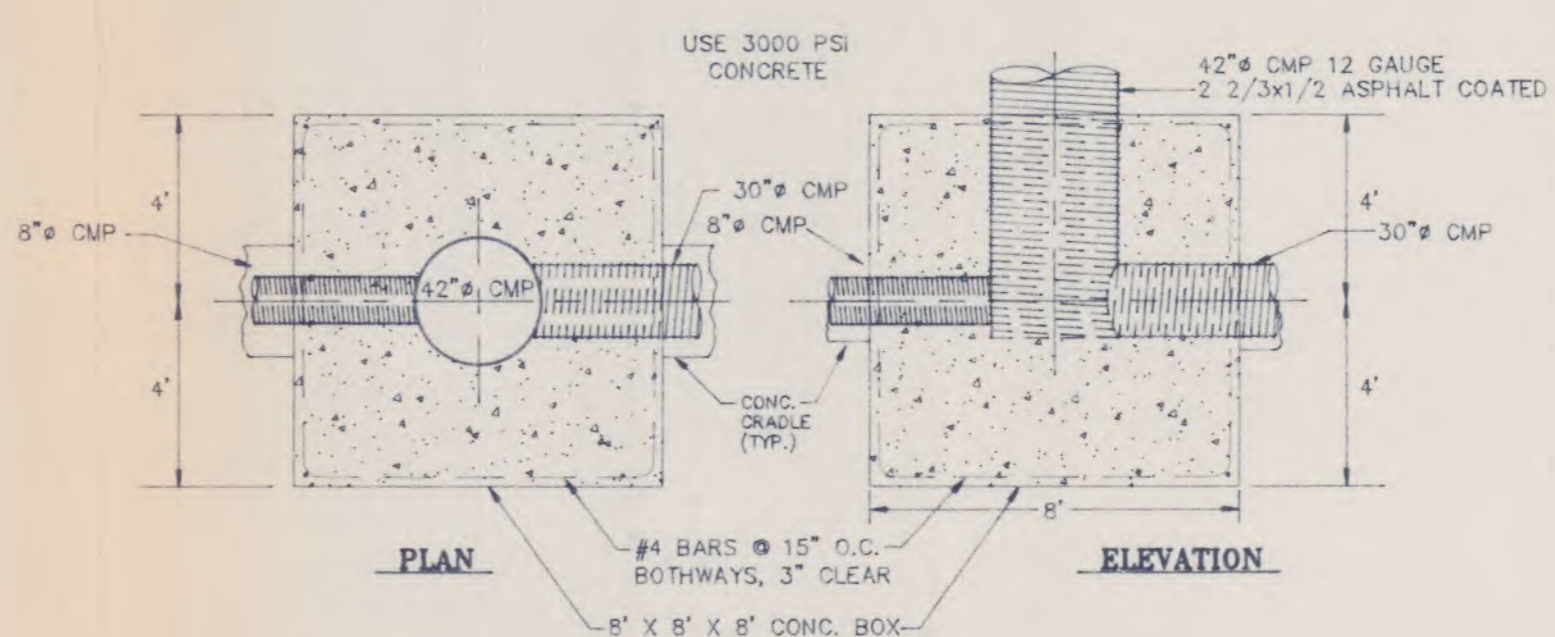
DRAIN BOX TRASH RACK DETAIL
 NOT TO SCALE



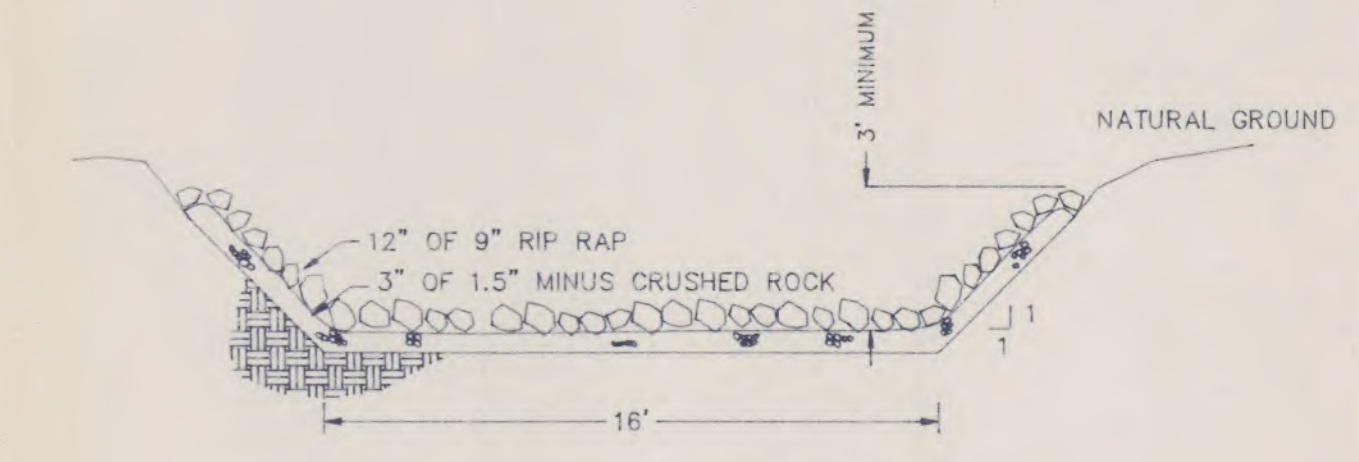
SECTION SPILLWAY DETAIL
 SCALE 1" = 4'



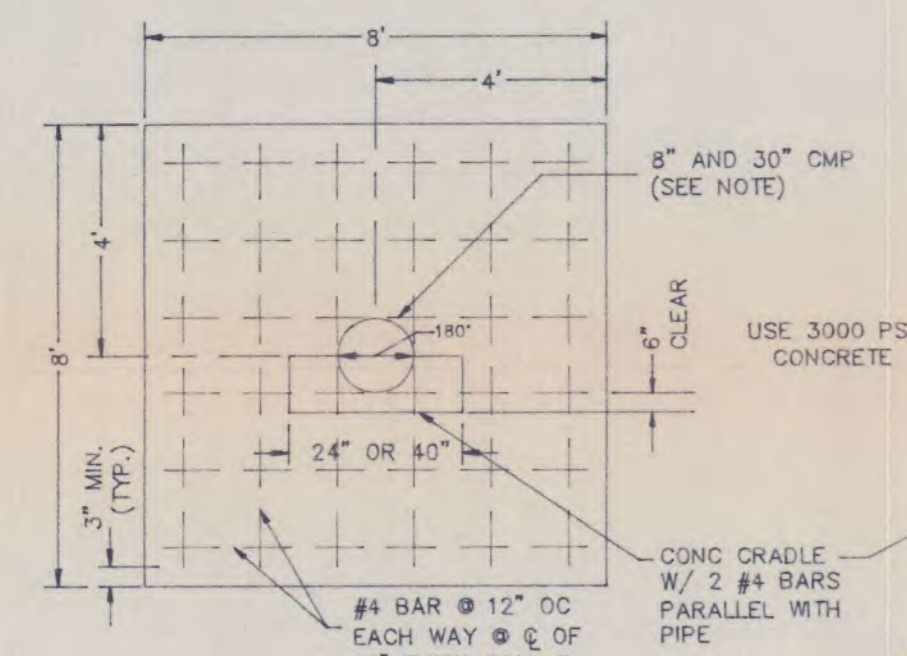
SLUICE GATE OPERATING SHAFT SUPPORT DETAIL @ 12' MAX O/C
 NOT TO SCALE



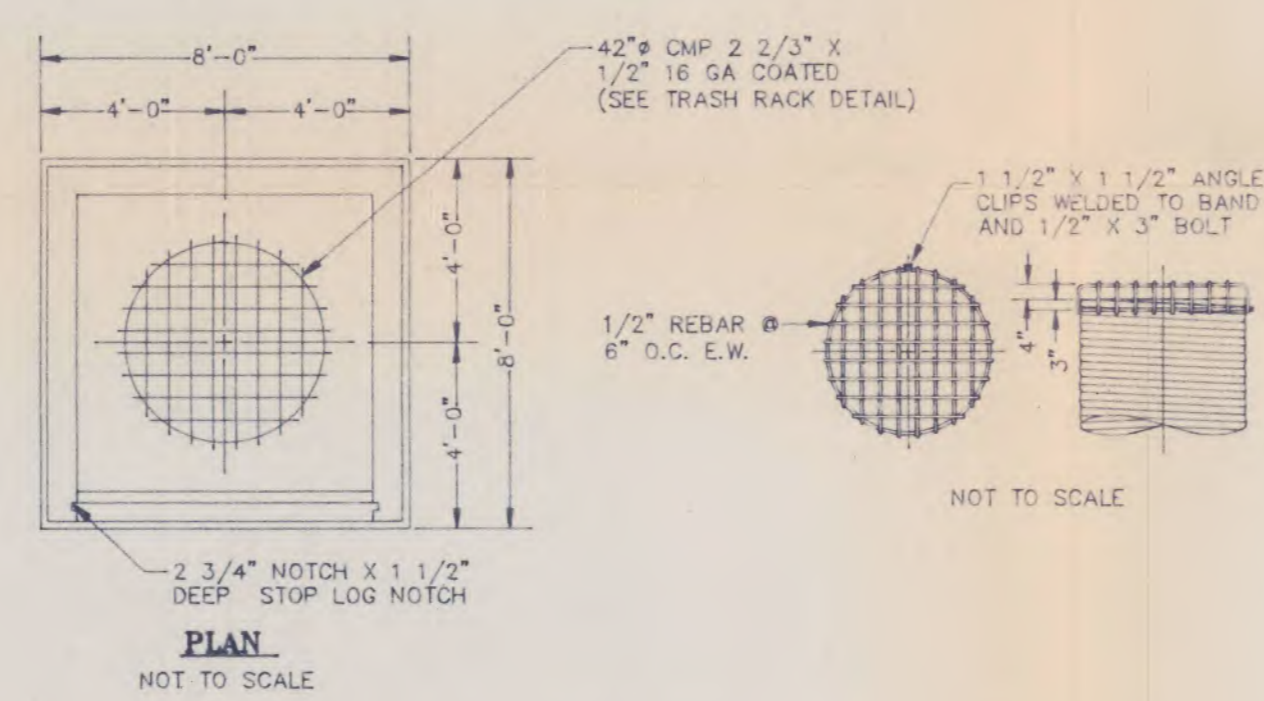
TRICKLE TUBE BASE DETAIL
 NOT TO SCALE



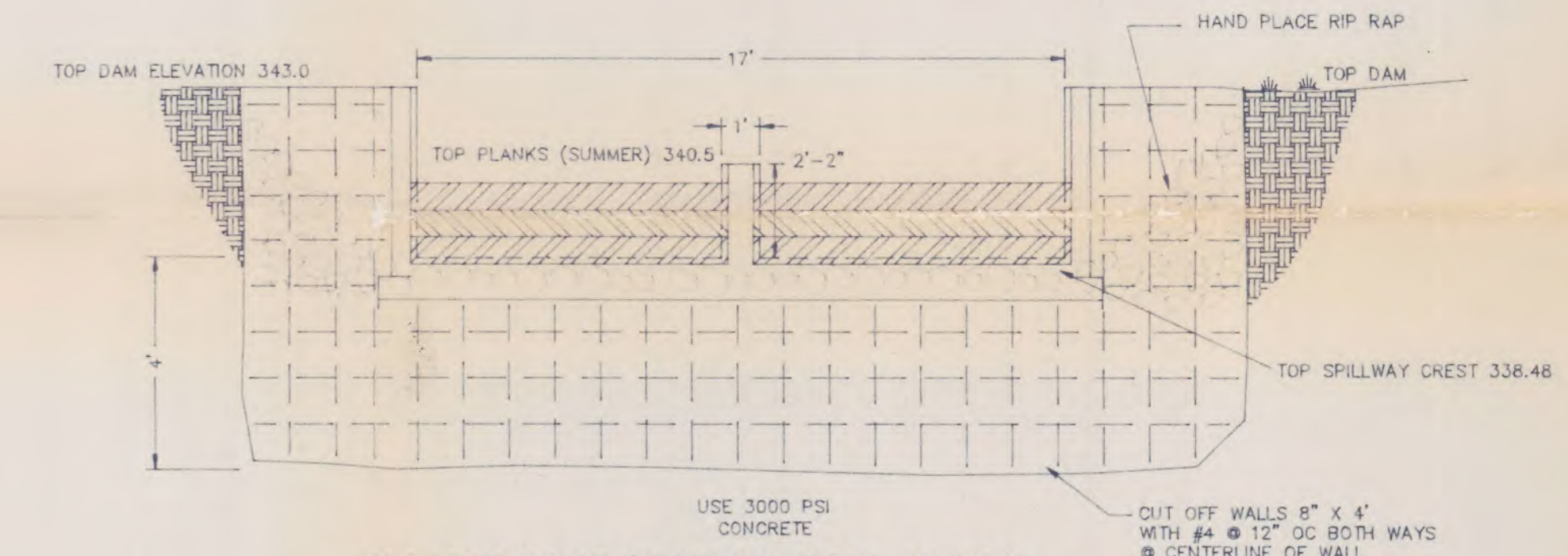
TYPICAL SPILLWAY SECTION
 SCALE 1" = 5'



CRADLE DETAIL UNDER DAM & UNDER SPILLWAY PIPE
 NOT TO SCALE



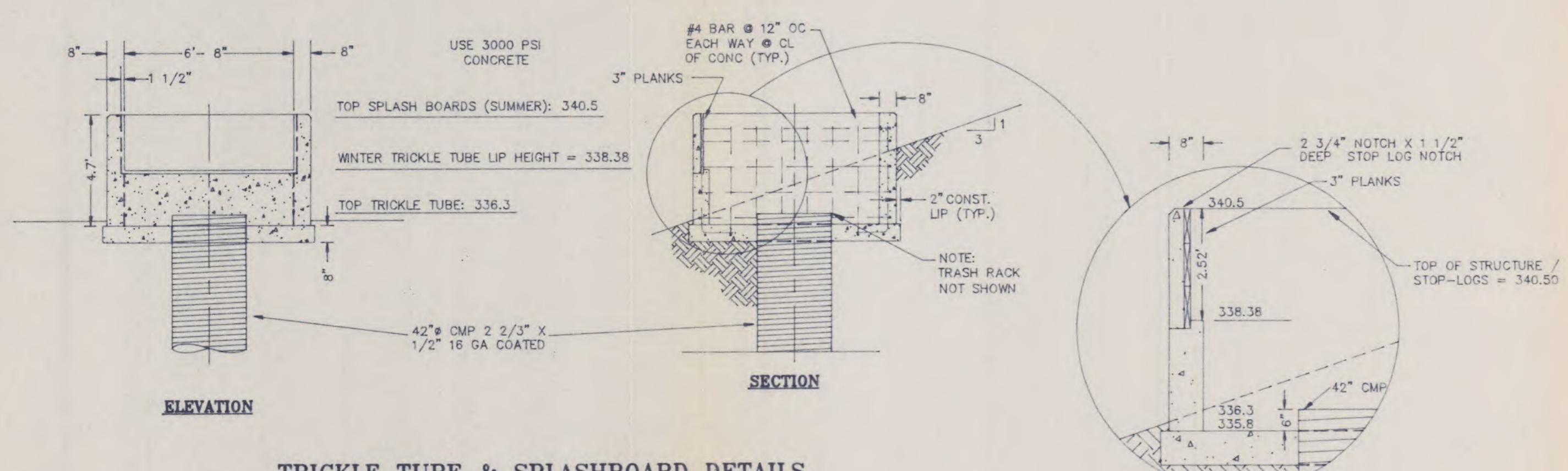
TRICKLE TUBE TRASH RACK DETAIL
 NOT TO SCALE



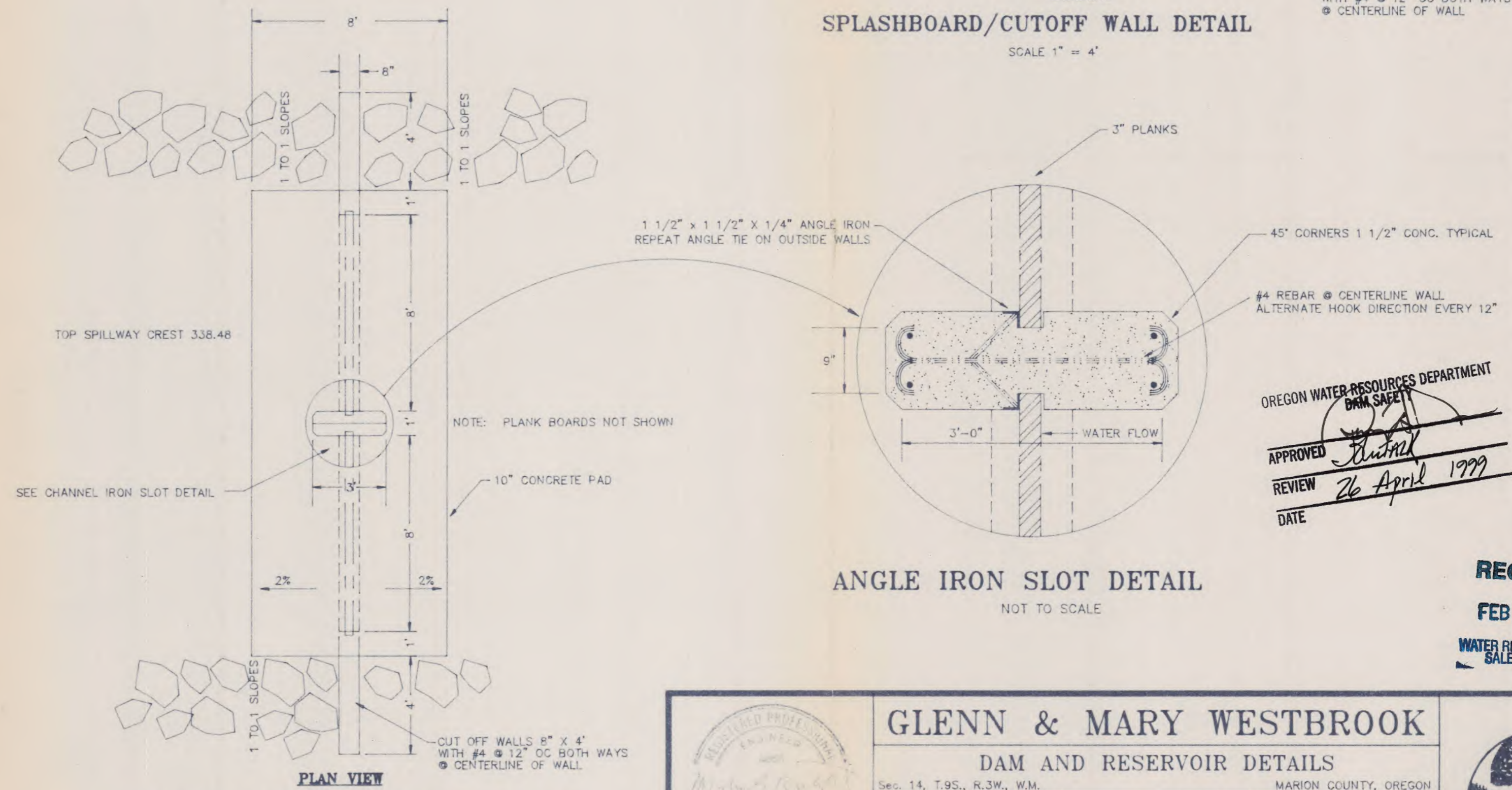
SPLASHBOARD/CUTOFF WALL DETAIL
 SCALE 1" = 4'

CUT-OFF COLLAR & PIPE BEDDING DETAIL
 NOT TO SCALE

NOTE: BEDDING THICKNESS OF THE CONCRETE CRADLE SHALL BE NOT LESS THAN 6"



TRICKLE TUBE & SPLASHBOARD DETAILS
 NOT TO SCALE



SPLASHBOARD SPILLWAY DETAIL
 SCALE 1" = 4'

OREGON WATER RESOURCES DEPARTMENT
 DAM SAFETY
 APPROVED [Signature]
 REVIEW [Signature]
 DATE 26 April 1999

RECEIVED
 FEB 12 1999
 WATER RESOURCES DEPT.
 SALEM, OREGON

GLENN & MARY WESTBROOK
 DAM AND RESERVOIR DETAILS
 Sec. 14, T.9S., R.3W., W.M. MARION COUNTY, OREGON
 Scale: 1" = 100' Date: DECEMBER 1998 Revised: FEB. 1999
 Designer: MGR Draftsman: [Signature] Checker: [Signature]

REQUEST FOR ASSIGNMENT

I, Glenn Westbrook / Mary Westbrook (dec.)
(Name of Applicant / Permit / Transfer Holder)

3022 Umatilla Pl SW Albany OR 97321 (541) 928-8293
(mailing address) (City) (State) (Zip) (Phone #)

CHECK ONE

- ...hereby assign **all my interest** in and to application/permit/transfer;
- ...hereby assign **all my interest** in and to a **portion** of application/permit/transfer;
(You must include a map showing the portion of the application/permit to be assigned.)
- ...hereby assign **a portion of my interest** in and to the **entire** application/permit/transfer;

Application # R84036 / S84037 , Permit # R12733 / S53603 , Transfer # _____

-OR-

GR Statement # _____ , GR Certificate of Registration # _____

as filed in the office of the Water Resources Director, to:

Krautmann Family Nursery LLC

(Name of New Owner)

4199 75th Ave SE Salem OR 97301-9242 (503) 585-9835
(mailing address) (City) (State) (Zip) (Phone #)

NOTE: *If there are other owners of the property described in this Application, Permit, Transfer or Certificate of Ground Water 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 or Certificate of Registration of this request for assignment.

Witness my hand this 24 day of September, 2004.

Applicant/Permit holder Glenn Westbrook

Applicant/Permit holder _____

Handwritten signature and date: 9/24/04

DO NOT WRITE IN THIS BOX

This certifies assignment and record change at Oregon Water Resources Department effective 8:00a.m. on date of receipt at Salem, Oregon.
Fee receipt # 70454
For Director by Jerry Sauter, Program Analyst in Water Rights Division Jerry Sauter

The completed "Request for Assignment" form *must be* submitted to the Department along with the appropriate recording fees:

- ◆ \$25 for the first page, and
- ◆ \$5 for **each additional page.**
[as required by ORS 536.050(1)(d)]

RECEIVED

SEP 24 2004

WATER RESOURCES DEPT
SALEM, OREGON

WATER RESOURCES DEPARTMENT
725 SUMMER STREET NE, SUITE A
SALEM, OREGON 97301-1271



HERITAGE

seedlings, inc.

Unusual Deciduous Species

September 28, 2004

WATER RESOURCES DEPT.
ATTN: JERRY SAUTER
725 Summer St NE, Suite A
Salem OR 97304-1271

RECEIVED
SEP 29 2004
WATER RESOURCES DEPT
SALEM, OREGON

Re: Request for Assignment of Water Rights
R84036/S84037, R12733/S53603

Dear Mr. Sauter:

This is accompanying a check in the amount of \$25.00 for the Request for Assignment I recently brought to your office, assigning Glenn Westbrook's rights to Heritage Seedlings.

Thank you for your help with this, and please feel free to contact me if you have any questions or concerns on this matter.

Sincerely

FRANK MCAULEY
Office Manager



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

April 28, 2004

Heritage Seedlings Inc.
4194 71st. Avenue SE
Salem, Oregon 97301

Reference: Application R-84036, Permit R-12733
Application S-84037, Permit S-53603

Dear Heritage Seedlings Inc.:

I am returning the request for assignment and check you submitted on the above referenced water rights. I am not able to assign these files because the request is missing some needed information. The request does not show to whom these files are being assigned to, either an individual or a company etc. In addition these files are in the names of Glen and Mary Westbrook, and only Glen Westbrook has signed the request. This request will require Mary Westbrook's signature as well to authorize the assignment.

Should you have any questions, please do not hesitate to contact me at the address above or by telephone at 503-986-0817.

Sincerely,

Jerry Sauter
Water Rights Program Analyst

encl: request and check

cc: file
Fiscal

84037 & 84036

RECEIVED

Oregon

Aug. 12, 1999

AUG 13 1999
WATER RESOURCES DEPT.
SALEM, OREGON



DEPARTMENT OF
FISH AND
WILDLIFE

Salem District Office

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

Re: Permit No. 53603 and R-12733
Westbrook, Glen and Mary
Marion County
Weaver Gulch > Miller Creek; 121 acre feet

ODFW inventoried the site of this proposed reservoir for the presence of fish resources on April 12, 1999. No fish species were present in the north branch of Weaver Gulch, where the reservoir will be located, and existing habitat does not appear to be suitable for supporting trout. Therefore, neither fish passage nor screening will be required at this impoundment.

Sincerely,

Wayne L. Hunt

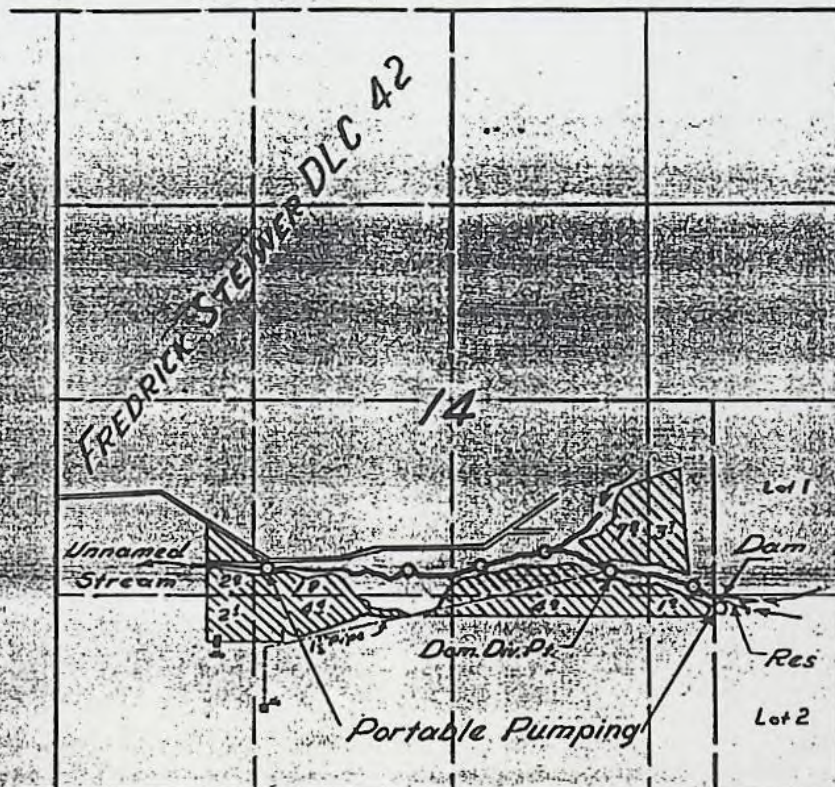
Wayne Hunt
Fish Biologist

C: Boatwright Engineering
Glen and Mary Westbrook
Zarnowitz, HD



4412 Silverton Road NE
Salem, OR 97305
(503) 378-6925
FAX (503) 378-6233

T 9 S. R. 3 W. W.M.



FINAL PROOF SURVEY

UNDER

R-22915

R-916

Application No. 22916 Permit No. 18066

IN NAME OF

KARL STEIWER

Surveyed 17 May 1956, by *C. M. H. H. H.*

Exam 250
10 AF
11 AF
175
546
RECEIVED
JAN 7 1999

Application No. R-84034

WATER RESOURCES DEPT.
SALEM, OREGON

State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Glen and Mary Westbrook
(Please print or type - use dark ink)

Mailing Address: 3022 Umatilla Place
Albany Oregon 97321 (541) 928-8293
City State Zip Daytime Phone No.

I (We) make application for a permit to construct Westbrook reservoir and store the following described waters of the State of Oregon:

1. **SOURCE OF WATER** for the proposed use: Weaver Gulch and Unnamed Stream, a tributary of Miller Crrek (Willamette Basin).
If not in channel of a stream, state how it is to be filled: _____

2. **THE DAM:** The maximum height of the structure will be 25 feet above stream bed or ground surface at the centerline.
The dam will be (check one) earthfill, _____ concrete, flashboard, _____ other.
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: 30" dia., 2-2/3 x 1/2, 14 ga. AC coated CMP @ exist. stream channel location.

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: irrigation and recreation

4. **THE AMOUNT OF WATER** to be stored is: 121 acre-feet.
The area submerged by the reservoir, when filled, will be 24.4 acres,
and the maximum depth of water will be 20.5 feet.

5. **SPILLWAY DESCRIPTION** (location and dimensions). State whether over or around the dam. 16' bottom w/ 1:1 side slopes to minimum of 3' depth; 12" of 9" rip-rap over 3" of 1½"-0 crushed rock around the north end of the dam.
Crest of dam has reinforced concrete 8"x4' structure with 2 channels for placing flashboards which raise the WS from 338.48 to 340.5.

6. **PROJECT SCHEDULE:** (List month and year)

Proposed date construction work will begin permit date + 1 year

Proposed date construction work will be completed permit date + 2 years

Proposed date water use will be completed permit date + 5 years

NOTE: Prior to issuance of a permit, it will be necessary to submit a map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the property on which the water is to be used. 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? yes. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

REMARKS: _____

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:

Glenn W. Westbrook
Signature

Dec 23 - 98
Date

Signature

Date

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

_____, 19____.

WITNESS my hand this _____ day of _____, 19____.

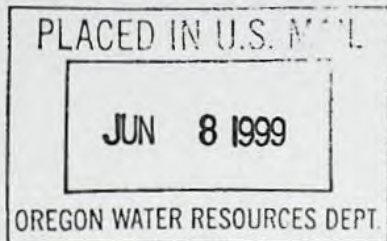
Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 7th day of January, 1999, at 8 o'clock, A.M.

APPLICATION NO: R-84036

Oregon Water Resources Department
Water Rights Division



Water Rights Application
Number R-84036

Proposed Final Order

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

Application History

On January 7, 1999, GLEN D. & MARY L. WESTBROOK submitted an application to the Department for the following water use permit:

- Amount of Water: 121.0 ACRE-FEET, BEING 105 ACRE-FEET FOR IRRIGATION AND 16.0 ACRE-FEET FOR RECREATION
- Use of Water: IRRIGATION AND RECREATION
- Source of Water: WEAVER GULCH, A TRIBUTARY OF MILLER CREEK
- Area of Proposed Use: MARION County within SECTION 14, TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

On 3/23/99, the Department mailed the applicant notice of its Initial Review, determining that "The storage of 121.0 ACRE-FEET from WEAVER GULCH, A TRIBUTARY OF MILLER CREEK being 105.0 ACRE-FEET for IRRIGATION AND 16.0 ACRE FEET for RECREATION is allowable from November 1 through June 30 of each year." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On 4/6/99, 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.

No written comments were received within 30 days.

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
- 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 Willamette Basin Program allows for the appropriation of water for storage November 1 through June 30.

Senior water rights exist on WEAVER GULCH AND AN UNNAMED STREAM, TRIBUTARIES OF MILLER CREEK, or on downstream waters.

WEAVER GULCH AND AN UNNAMED STREAM, TRIBUTARIES OF MILLER CREEK, are not within or above a State Scenic Waterway.

An assessment of water availability has been completed. This assessment compared a calculation of natural streamflow minus the consumption portion of all relevant rights of record. A copy of this assessment is in the file. This assessment determined that water is available for further appropriation (at a 50 percent exceedance probability) for the period November 1 through June 30, the storage season.

The Department finds that the amount of water requested, 121.0 ACRE-FEET, is allowable.

There is no evidence in the record of the presence of game fish at the described point of diversion.

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 Willamette 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 other rules of the Water Resources Commission not otherwise described above.

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.

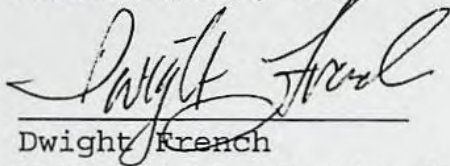
In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use will impair or be detrimental to the public interest.

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 June 8, 1999



Dwight French
Water Rights Section Manager

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

Protest Rights and Standing

Under the provisions of 537.621(7), you have the right to protest 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 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the proposed final order.
- If you do not protest this Proposed Final Order and if no substantive changes are made in the final order, you will not have an opportunity for judicial review, protest or appeal of the final order when it is issued.

Requests for Standing

Under the provisions of 537.153(5), persons other than the applicant who support a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing, include a statement that the requester supports the proposed final order, and a statement of how the requester would be harmed if the proposed final order is modified. The fee required at the time of submitting this request is \$50.00. If a hearing is scheduled, an additional fee of \$150.00 must be submitted along with a request for intervention. Forms to request standing are available from the Department.

Your protest or request for standing must be received in the Water Resources Department no later than **July 23, 1999**.

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.

This document was prepared by Russell W. Klassen. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me toll free within Oregon at 1-800-624-3199 extension 266. Outside of Oregon you can dial 1-503-378-8455.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Adam Sussman. His extension number is 262.

If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at extension 499.

Address all other correspondence to:

Water Rights Section, Oregon Water Resources Department, 158 12th ST. NE Salem, OR 97310
Fax: (503)378-2496 .

DRAFT

This is not a permit!!!

DRAFT

STATE OF OREGON

COUNTY OF MARION

DRAFT PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

GLEN D. & MARY L. WESTBROOK
3022 UMATILLA PLACE
ALBANY, OREGON 97321

(541) 928-8293

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: R-84036

SOURCE OF WATER: WEAVER GULCH AND AN UNNAMED STREAM, TRIBUTARIES OF MILLER CREEK

STORAGE FACILITY: WESTBROOK RESERVOIR

PURPOSE OR USE OF THE STORED WATER: IRRIGATION AND RECREATION

PURPOSE OR USE OF THE STORED WATER: RECREATION AND TO BE APPROPRIATED UNDER APPLICATION S-84037 FOR IRRIGATION

MAXIMUM VOLUME: 121 AF PER YEAR EACH YEAR, BEING 16.0 ACRE-FEET FOR RECREATION AND 105 ACRE-FEET FOR IRRIGATION

WATER MAY BE APPROPRIATED FOR STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: JANUARY 7, 1999

The area submerged by the reservoir, when full, will be 24.4 acres and the maximum depth of water will be 20.5 feet. The maximum height of the dam shall not exceed 25.0 feet.

DAM LOCATION: NW 1/4 SE 1/4, SECTION 14, T 9S, R3W, W.M.; 2030 FEET NORTH AND 1510 FEET WEST FROM THE SE CORNER SECTION 14

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

NE 1/4 SE 1/4
NW 1/4 SE 1/4
SECTION 14
TOWNSHIP 9 SOUTH, RANGE 3 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.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

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

Routine maintenance of the dam, its spillway 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 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.

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

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

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 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.

STANDARD CONDITIONS

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.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

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 issuance of the final order approving the use. The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 2003. 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 _____, 199_

DRAFT - THIS IS NOT A PERMIT

Martha O. Pagel, Director
Water Resources Department

Mailing List for PFO Copies

Application #R-84036

PFO Date: June 8, 1999

Original mailed to:

Applicant: GLEN & MARY WESTBROOK, 3022 UMATILLA PLACE, ALBANY, OREGON 97321

Copies sent to:

1. WRD - File # R-84036

PFO, Map, and Fact Sheet Copies sent to:

2. WRD - Watermaster # District 16

DIV 33stwd 3. ODFW District Biologist: Nancy Leibowitz

4. DEQ (Portland): Russell Harding

5. DOA (Salem): Steve Applegate

Copies Mailed
By: <u>JF</u>
(SUPPORT STAFF)
on: <u>6-7-99</u>
(DATE)

Copies sent to Other Interested Persons (*CWRE, Agent, Well Driller, Commenter, etc.*)

6. Corbey Boatwright (CWRE)

CASEWORKER: RWK - WEEK 202

FO CHECKLIST

FILE # R 84036
 PFO WEEK # 202

PFO TO FO CONVERSION

REVIEW DATE: 7/26/99
 INITIALS: BWK

In preparing to create the FO, you should check the following:

1. Y / N Were **comments or protests** received? If so, from whom and when?
THE APPLICANT 6/14/99

2. Y / N / NA Have affected owners, commentors, & those who paid \$10 been **notified** at the proper address?

3. Y / NA Has ODFW asked for **self certification** of screening?(If so, write "ODFW CERT" in the permit block on the file.)

4. Y / N Fees due?

owe	90	250 BASE
		100 10 AF
		111 111 AF
		175 REC
		636
		546 PD
		90

5. Y / N Is **further processing** possible? If not state reason: _____

6. Y / N Is **additional information required**, fees, secondary, etc., prior to permit? (Send certified letter prior to FO)

7. Y / N Assign **permit numbers** _____

8. Y / N Do the PFO conclusions require **modification**? Why? _____

FO Type: FOMOD	DENIAL	FO w/o PERMIT	FO & PERMIT	MGMT CODES
<p style="text-align: center;"><i>THERE WERE ADJUSTMENTS TO DESCRIPTION OF THE SOURCES PRIOR TO PFO THAT WERE NOT INCORPORATED IN THE PFO</i></p>				

Once created, modify FO as needed to:

9. Y / N Correct PFO **errors** (such as POD or POU location [verify from map] or Permit format)

10. Save WordPerfect document in M:\GROUPS\WR\FOWEEK 201 & delete duplicates.

PFO CHECKLIST

Application #: K 84036

County MARION Basin: WILLAMETTE 2
Township 9S Range 3W Section 14 1/4 1/4 NW SE

- 1. Complete by Minimum Requirements Checklist? Y / N
- 2. Shortcomings (items needed before a permit and/or FO can be issued) Y / N Should process continue Y / N

- 3. Groundwater Review **A B C D** River/Stream Name _____
 a. Groundwater Availability **A B C**
 b. Is second groundwater review complete Y / N necessary? (comments) Y / N
 c. Is the well located in a GWLA or CA? (If applicable, include map with POD) Y / N within area

- 4. Is use from BOR / Doug Co. project? Y / N Y Contract in file? Y / N Contract # _____
- 5. Is the use allowed by the Basin Program? Y / N Limited? Y / N Y 11-6/30

6. Water Availability Data OK / REDONE / NA (80% live flow & 50% storage) _____

7. Is the source **withdrawn** or limited by statute or Department order? Y / N Y

8. Is the Proposed Use located in or above a **SWW**? Y / N Y

9. Division 33: Y / N / NA Above Bonn (after July 17, 1992) Y / N Y
Below Bonn (after April 8, 1994; June 3, 1994) Y / N Y
Statewide - (in shaded areas on T, E, and S Map - after June 3, 1994) Y / N Y

10. IR identifies as on DEQ 303d List? Y / N / NA Comments received? Y / N Y

11. Have **conflicts** been addressed? Y / N / NA RESOLVED BY SUPERSEDING MAP

12. Duty _____ Irrigation Season _____

13. Period of Allowed Use Nov - Jun 30

14. Allowed Rate 121 AF

summary:
Limit by Basin Plan

15. **Small** (≤ 0.1 cfs, ≤ 9.2 AF), **Medium** (> 0.1 or < 1.5 cfs, > 9.2 or < 100 AF) or **Large** (≥ 1.5 cfs, ≥ 100 AF) condition **7I** and **municipal** use ≤ 0.1 cfs require the **Large** condition

16. **Conditions** PISPC, Dam SAFETY
New River Basin? Y / N / NA (see M:\groups\wr\pfo\findings & other lang)

17. IR Date 3/25/99 Public Notice Date 4/6/99 Comment Rec'd _____

18. CWRE, representatives or Property owners to notify? Y / N Y
COOPER ROAD RIGHT

Initials: RWK Date: 5/25/99

IR CHECKLIST

Application # R-84036 Priority Date: 1/7/99
Basin: 2-WILL County: Mason
Township 9S Range 3W Section 17 1/4 1/4 NWSE
WAB: 0105 337 POU WAB: _____

2nd day is
S-84037

1 Complete by Minimum Requirements checklist (Y) N Items still required: _____

2 Groundwater Review A B C D River/Stream Name _____
Conditions _____ Water Availability A B C _____

3 Is the well located in a groundwater limited area? Y N Name _____

4 Is the well located in T1N R3E SEC 20, 21, 28, 29 Y N _____

5 Within or above a Scenic Waterway Y N Conditions/Restrictions Y N _____

6 Basin Maps have been checked (Y) N Will S^N & Santiam confluence (R) RM106

7 Allowed under Basin Program (Y) N Limitations (Y) N 690-502-040(1)(a)

8 Withdrawn Y (N) Season Allowed _____ 4R

9 Water Availability 80% _____ (50%) Dep - 4R 4R N/A

10 Use IRR, RC Period of allowed use 11/1 - 6/30

11 Season requested by applicant 11/1 - 6/30

12 For Irrigation: Rate _____ Duty _____ Season _____

13 For Nursery or Cranberry: Rate _____ Duty _____ Season _____

14 Allowable rate of use: 121.0 AF

Requested Rate: 121.0 AF 105 AF IRR, 16 AF REC.

15 BOR project Y (N) Contract # _____

16 Subject to Division 33: (Y) N N/A Above Bonneville _____ TES Y N
Below Bonneville (Y) TES (N) TES only Y N

17 Conflict Y (N) Cent. 23305, 23306 - See S-84037 for copies

18 Conditions? (BOR, GW, other) Y (N)

19 Measuring condition Small _____ Medium _____ Large (Y)

20 Within Dept. Of Agriculture Water Quality Management Area Y (N) N/A

TUALATIN _____ BEAR CREEK(ROGUE) _____

21 On DEQ 303d list Y (N) N/A

22 Land use approval (OK'd) Needs Approval County Notified N/A

23 Watermaster Dist: (1 2 (16) 18 20 (NWR) (3 4 5 NCR) (6 8 9 10 ER)
(11 12 17 SCR) (13 14 15 19 SWR)

24 ODFW Biologist Nancy Leibowitz

24 Letter will be: (GOOD) LIMITED BAD BAD W/IR SHORT BAD W/HC EXCEPT

Name: [Signature] Date: 2/24/99

(10) Protect and encourage use of water which sustains economic development.

Stat. Auth.: ORS 536.220, 536.300, 536.310, 536.340, 536.410, 537.170, 537.356 & 537.358

Hist.: WRD 4-1992, f. & cert. ef. 3-13-92; WRD 12-1992, f. & cert. ef. 9-9-92

General Provisions

690-502-040 (1) Water availability: The classifications in OAR 690-502-050 through 690-502-150 limit access to natural streamflow during periods when remaining available supplies are insufficient to meet existing water rights and public instream uses 80 percent of the time. When improved water availability data show that there is insufficient natural flow to support a classification, any permit issued shall further restrict or condition the time of use to when water is available.

(2) Limited licenses: The uses of surface water for which limited licenses may be issued are prescribed in ORS 537.143(1). Applications for limited licenses may be accepted in the Willamette Basin unless expressly prohibited by statute, order of the State Engineer or the Commission, or by the classifications in OAR 690-502-050 through 690-502-150.

(3) Surface water applications: Applications to use surface water filed after April 18, 1991, shall be processed under the classifications established in OAR 690-502-050 through 690-502-150. Applications filed on or before April 18, 1991, shall be processed under the classification in effect at the time of the application.

(4) Storage:

(a) Unless expressly prohibited by statute, order or administrative rule, the surface waters of the Willamette River and tributaries are classified for storage from November 1 to June 30. A storage permit may be issued for a shorter time period and/or conditioned based on water availability or compatibility with other uses and needs;

(b) Secondary applications to maintain reservoir levels throughout the year may be processed if the proposed use is consistent with the classification;

(c) Water legally stored may be released or used at any time for any beneficial purpose, such as domestic, livestock, irrigation (during the irrigation season as specified in section (6) of this rule), agricultural, commercial, municipal, industrial, power, mining, recreation, fish life, wildlife, pollution abatement, wetland enhancement, public instream uses and uses allowed under a limited license.

(5) Groundwater recharge: Use of surface water to recharge groundwater shall be subject to the same limitations and season as specified in section (4) of this rule. Use of groundwater from one aquifer to recharge another shall be allowed only if consistent with the classification of the providing aquifer as specified in OAR 690-502-160.

(6) Expanded irrigation season: Unless expressly limited by statute, court decree, order, administrative rule (including classification, except for use of stored water), water availability or any other permit condition, an irrigation season of March 1 to October 31 shall apply to future permits for primary and supplemental irrigation.

(7) Conservation: The Department shall require that special conservation and water use efficiency conditions be employed when permitting the use of water from the Columbia River Basalt Group, low-yield aquifers and water quality limited streams.

Stat. Auth.: ORS 536.220, 536.300, 536.310, 536.340, 536.410, 537.170, 537.356 & 537.358

Hist.: WRD 4-1992, f. & cert. ef. 3-13-92; WRD 12-1992, f. & cert. ef. 9-9-92

ADD #	ADD #	ACRES	USE	Prim/Supp	Existing Add #	PENALTY	CERT #	Status	Unit	Acres	Prim/Supp
R	88839	0.00	IR								
<i>NCR</i>	9.005	3.00W14	ARSE	Conflicts:	S 22916	S 18066	23300	V	IR	7.000	P

WATER AVAILABILITY TABLE

Basin: WILLAMETTE Exceedance Level: 50
 Water Availability Subbasin: 0105300000000000 (and Nested Subbasins)
 Time: 11:27 Date: 03/04/1999

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	0100000000000000	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
2	0105000000000000	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
3	0105300000000000	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES

STREAM NAMES

Basin: WILLAMETTE
 Water Availability Subbasin: 0105300000000000 (and Nested Subbasins)
 Time: 11:27 Date: 03/04/1999

WAB #	Stream Name	Tributary to
0100000000000000	WILLAMETTE R @ mouth	COLUMBIA R
0105000000000000	WILLAMETTE R ab MOLALLA R	COLUMBIA R
0105300000000000	WILLAMETTE R @ 14191000	COLUMBIA R

LIMITING WATER AVAILABILITY SUBBASINS

Water Availability Subbasin: 0105300000000000
 Basin: WILLAMETTE Exceedance Level: 50
 Time: 11:27 Date: 03/04/1999

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	0105300000000000	WILLAMETTE R @ 14191000	YES	29900.0
2	0105300000000000	WILLAMETTE R @ 14191000	YES	22500.0
3	0105300000000000	WILLAMETTE R @ 14191000	YES	20800.0
4	0105300000000000	WILLAMETTE R @ 14191000	YES	17900.0
5	0105300000000000	WILLAMETTE R @ 14191000	YES	16300.0
6	0105300000000000	WILLAMETTE R @ 14191000	YES	9620.0
7	0105000000000000	WILLAMETTE R ab MOLALLA R	YES	3370.0
8	0105000000000000	WILLAMETTE R ab MOLALLA R	YES	1460.0
9	0105000000000000	WILLAMETTE R ab MOLALLA R	YES	1860.0
10	0105300000000000	WILLAMETTE R @ 14191000	YES	4680.0
11	0105300000000000	WILLAMETTE R @ 14191000	YES	15300.0
12	0105300000000000	WILLAMETTE R @ 14191000	YES	33000.0
Stor	0105300000000000	WILLAMETTE R @ 14191000	YES	*****

DETAILED REPORT ON WATER AVAILABILITY

Basin: WILLAMETTE

Exceedance Level: 50

Stream: WILLAMETTE R @ mouth

Water Availability Subbasin: 0100000000000000

ID Number: 181

Time: 11:27

Date: 03/04/1999

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	52400.00	1380.00	51000.00	261.00	50700.00	1500.00	49200.00
2	50600.00	7890.00	42700.00	258.00	42400.00	1500.00	40900.00
3	42800.00	6480.00	36300.00	248.00	36100.00	1500.00	34600.00
4	36900.00	6530.00	30400.00	236.00	30200.00	1500.00	28700.00
5	28200.00	3530.00	24700.00	230.00	24500.00	1500.00	23000.00
6	15300.00	1460.00	13800.00	422.00	13400.00	1500.00	11900.00
7	7780.00	1640.00	6140.00	428.00	5710.00	1500.00	4210.00
8	5450.00	1470.00	3980.00	395.00	3580.00	1500.00	2080.00
9	5650.00	1090.00	4560.00	372.00	4190.00	1500.00	2690.00
10	8240.00	358.00	7880.00	178.00	7700.00	1500.00	6200.00
11	25000.00	389.00	24600.00	216.00	24400.00	1500.00	22900.00
12	54700.00	495.00	54200.00	259.00	53900.00	1500.00	52400.00
Stor	19900000	1960000	18000000	210000	17800000	1080000	16700000

DETAILED REPORT OF ISWRs

Basin: WILLAMETTE

Stream: WILLAMETTE R @ mouth

Water Availability Subbasin: 0100000000000000

Time: 11:27

Date: 03/04/1999

-----ISWRs-----						
APP #	181A	0	0	0	0	RESULTANT
STATUS	Cert.					
1	1500.00	.00	.00	.00	.00	1500.00C
2	1500.00	.00	.00	.00	.00	1500.00C
3	1500.00	.00	.00	.00	.00	1500.00C
4	1500.00	.00	.00	.00	.00	1500.00C
5	1500.00	.00	.00	.00	.00	1500.00C
6	1500.00	.00	.00	.00	.00	1500.00C
7	1500.00	.00	.00	.00	.00	1500.00C
8	1500.00	.00	.00	.00	.00	1500.00C
9	1500.00	.00	.00	.00	.00	1500.00C
10	1500.00	.00	.00	.00	.00	1500.00C
11	1500.00	.00	.00	.00	.00	1500.00C
12	1500.00	.00	.00	.00	.00	1500.00C

DETAILED REPORT ON WATER AVAILABILITY

Basin: WILLAMETTE

Exceedance Level: 50

Stream: WILLAMETTE R ab MOLALLA R

Water Availability Subbasin: 0105000000000000

ID Number: 182

Time: 11:27

Date: 03/04/1999

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	38500.00	1120.00	37400.00	195.00	37200.00	1500.00	35700.00
2	37100.00	7550.00	29600.00	193.00	29400.00	1500.00	27900.00
3	32800.00	6310.00	26500.00	191.00	26300.00	1500.00	24800.00
4	28300.00	6310.00	22000.00	186.00	21800.00	1500.00	20300.00
5	22200.00	3290.00	18900.00	194.00	18700.00	1500.00	17200.00
6	12500.00	1030.00	11500.00	365.00	11130.00	1500.00	9630.00
7	6330.00	1100.00	5230.00	363.00	4870.00	1500.00	3370.00
8	4290.00	986.00	3300.00	335.00	2960.00	1500.00	1460.00
9	4420.00	727.00	3690.00	327.00	3360.00	1500.00	1860.00
10	6690.00	253.00	6440.00	159.00	6280.00	1500.00	4780.00
11	19000.00	270.00	18700.00	179.00	18500.00	1500.00	17000.00
12	40700.00	295.00	40400.00	195.00	40200.00	1500.00	38700.00
Stor	15100000	1750000	13400000	173000	13200000	1080000	12100000

DETAILED REPORT OF ISWRs

Basin: WILLAMETTE

Stream: WILLAMETTE R ab MOLALLA R

Water Availability Subbasin: 0105000000000000

Time: 11:27

Date: 03/04/1999

-----ISWRs-----							
APP #	182A	0	0	0	0	0	RESULTANT
STATUS	Cert.						
1	1500.00	.00	.00	.00	.00	.00	1500.00C
2	1500.00	.00	.00	.00	.00	.00	1500.00C
3	1500.00	.00	.00	.00	.00	.00	1500.00C
4	1500.00	.00	.00	.00	.00	.00	1500.00C
5	1500.00	.00	.00	.00	.00	.00	1500.00C
6	1500.00	.00	.00	.00	.00	.00	1500.00C
7	1500.00	.00	.00	.00	.00	.00	1500.00C
8	1500.00	.00	.00	.00	.00	.00	1500.00C
9	1500.00	.00	.00	.00	.00	.00	1500.00C
10	1500.00	.00	.00	.00	.00	.00	1500.00C
11	1500.00	.00	.00	.00	.00	.00	1500.00C
12	1500.00	.00	.00	.00	.00	.00	1500.00C

DETAILED REPORT ON WATER AVAILABILITY

Basin: WILLAMETTE

Exceedance Level: 50

Stream: WILLAMETTE R @ 14191000

Water Availability Subbasin: 0105300000000000

ID Number: 14191000

Time: 11:27

Date: 03/04/1999

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	32500.00	1300.00	31200.00	36.70	31200.00	1300.00	29900.00
2	31500.00	7700.00	23800.00	34.90	23800.00	1300.00	22500.00
3	28600.00	6500.00	22100.00	34.20	22100.00	1300.00	20800.00
4	25700.00	6500.00	19200.00	31.50	19200.00	1300.00	17900.00
5	21000.00	3400.00	17600.00	41.40	17600.00	1300.00	16300.00
6	12100.00	1100.00	11000.00	75.90	10920.00	1300.00	9620.00
7	6070.00	1090.00	4980.00	80.70	4900.00	1300.00	3600.00
8	4110.00	1010.00	3100.00	59.80	3040.00	1300.00	1740.00
9	4210.00	830.00	3380.00	54.00	3330.00	1300.00	2030.00
10	6410.00	410.00	6000.00	23.70	5980.00	1300.00	4680.00
11	17000.00	400.00	16600.00	28.20	16600.00	1300.00	15300.00
12	34700.00	400.00	34300.00	36.60	34300.00	1300.00	33000.00
Stor	13400000	1830000	11600000	32200	11500000	934000	10600000

DETAILED REPORT OF ISWRs

Basin: WILLAMETTE

Stream: WILLAMETTE R @ 14191000

Water Availability Subbasin: 0105300000000000

Time: 11:27

Date: 03/04/1999

-----ISWRs-----							
APP #	183A	0	0	0	0	RESULTANT	
STATUS	Cert.						
1	1300.00	.00	.00	.00	.00	1300.00C	
2	1300.00	.00	.00	.00	.00	1300.00C	
3	1300.00	.00	.00	.00	.00	1300.00C	
4	1300.00	.00	.00	.00	.00	1300.00C	
5	1300.00	.00	.00	.00	.00	1300.00C	
6	1300.00	.00	.00	.00	.00	1300.00C	
7	1300.00	.00	.00	.00	.00	1300.00C	
8	1300.00	.00	.00	.00	.00	1300.00C	
9	1300.00	.00	.00	.00	.00	1300.00C	
10	1300.00	.00	.00	.00	.00	1300.00C	
11	1300.00	.00	.00	.00	.00	1300.00C	
12	1300.00	.00	.00	.00	.00	1300.00C	

RECEIVED

JUN 15 1999

WATER RESOURCES DEPT.
SALEM, OREGON



Boatwright Engineering Inc.

2613 12th ST SE, SALEM, OREGON 97302
civil engineers • land surveyors

(503) 363-9225 (FAX) 363-1051

June 14, 1999

Russell W. Klassen
Water Rights Section
Oregon Department of Water Resources
158 12th Street SE
Salem, Oregon 97310

DO THIS ADJUST
BEFORE FO

Re: R-84036
S-84037
Glenn D. and Mary L. Westbrook
Marion County

Dear Russ,

Thanks for meeting with me today at your office. This letter is intended to discuss areas with which we and the applicants disagree with the Proposed Final Order and accompanying Draft Permit. On, or about, May 10th, I visited Anita Huffman in your office and explained that the reservoir site had been mis-mapped at the wrong confluence and involved a different Unnamed Tributary and changed the 1/4, 1/4 acres. I was told that this was not a problem. She directed me to Laura Snedeker, who she said would be doing the next work on it. On May 10th, I brought a portion of a Quad map into your office reflecting the change in the dam and reservoir site which I presented to Laura. The map notes that the amount of live flow cfs, which was calculated as a percentage of the total drainage area, was going to change to 0.55 from Weaver Gulch and 0.45 from the different, more northerly, unnamed Tributary. There is also a note regarding changes to the 1/4, 1/4's. I asked if a letter was needed to make the change and was told it was OK. I thought I was told that I would be contacted if anything was needed. The chain of communication was broken when you were given the file to process.

A copy of the dated map with the above related facts is presently in the file. Please advise me whether or not this letter is sufficient to make the rate and area changes in the Proposed Final Order. I have included copies of the revised application maps which show the proper 1/4, 1/4 acres for primary and supplemental irrigation and the revised diversion points.

Also, please note that Mr Westbrook's first name is spelled with two N's.

Sincerely,

Jeanne M. Boatwright

CC: Glenn and Mary Westbrook

RECEIVED

JUN 15 1999

WATER RESOURCES DEPT.
SALEM, OREGON



Boatwright Engineering Inc.

2613 12th ST SE, SALEM, OREGON 97302

civil engineers • land surveyors

(503) 363-9225 (FAX) 363-1051

June 14, 1999

Russell W. Klassen
Water Rights Section
Oregon Department of Water Resources
158 12th Street SE
Salem, Oregon 97310

Re: R-84036
S-84037
Glenn D. and Mary L. Westbrook
Marion County

Dear Russ,

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Also, please note that Mr Westbrook's first name is spelled with two N's.

Sincerely,

Jeanne M. Boatwright

CC: Glenn and Mary Westbrook



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97310-02
(503) 378-37
FAX (503) 378-81

March 23, 1999

GLEN WESTBROOK
MARY WESTBROOK
3022 UMATILLA PLACE
ALBANY, OREGON 97321

Reference: File R-84036

Dear Applicant:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

This letter is to inform you of the favorable preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The proposed use is not prohibited by law or rule.
2. The use of water from WEAVER GULCH, A TRIBUTARY OF MILLER CREEK for storage for IRRIGATION AND RECREATION is **allowable** under OAR 690-502-040(1)(a), the Willamette Basin Program.
3. Water in the amount of 121.0 ACRE-FEET for being 105.0 ACRE-FEET FOR IRRIGATION AND 16.0 ACRE FEET FOR RECREATION is **available** for storage November 1 through June 30.
4. The proposed dam must meet the specifications outlined by the Department prior to the issuance of a permit.
5. According to Department records, there are existing rights, certificates 23305 and 23306, covering a portion of land proposed under this application. Prior to proceeding with application R-84036, the Department must receive a completed form authorizing

cancellation of the existing right, a completed affidavit of diminution of the existing right, a transfer of the existing certificate, or other means of dealing with the conflict with the existing certificate/ permit and the use proposed under this application. Please refer to the Conflict Resolution section below for more information.

Summary of Initial Determinations

The storage of 121.0 ACRE-FEET from WEAVER GULCH, A TRIBUTARY OF MILLER CREEK being 105.0 ACRE-FEET for IRRIGATION AND 16.0 ACRE FEET for RECREATION is allowable from November 1 through June 30 of each year.

Because of these favorable determinations, the Department can now move your application to the next phase of the water rights application review process. This phase is where public interest factors will be evaluated.

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.

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.

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 **Tuesday, April 6, 1999**. For your convenience you may use the enclosed "STOP PROCESSING" form.

Conflict Resolution Information:

According to Department records, there are existing rights, certificates 23305 and 23306, covering a portion of land proposed under this application. Prior to proceeding with application R-84036, the Department must receive a completed form authorizing cancellation of the existing right, a completed affidavit of diminution of the existing right, a transfer of the existing certificate, or other means of dealing with the conflict with the existing certificate/ permit and the use proposed under this application. Please refer to the Conflict Resolution section below for

more information. **Please submit this information no later than May 13, 1999 or the Department may issue the Final Order and permit with the land in question made supplemental to the existing right, which will limit and/or jeopardize that portion of the right as follows:**

- ◆ If the existing certificate is found to have been forfeited the use supplemental to such certificate may also be canceled.
- ◆ You may only use the supplemental right after the primary right becomes unavailable. The primary right must be exhausted first.
- ◆ The season of use for the supplemental irrigation will be limited to that of the primary right.

If you are unable to submit the above listed information, you may request a "time out from processing" for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If a time out is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. 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.
2. The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

3. If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

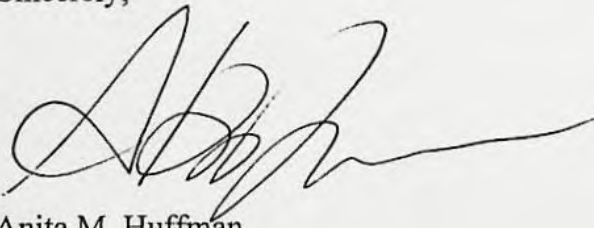
4. The priority date for this application is January 7, 1999.

Information obtained from the Department of Environmental Quality (DEQ) indicates that the source of water identified in your application is "Water Quality Limited". That means that there are water quality concerns. DEQ will be looking at information from your application to see if additional conditions or restrictions are needed to protect the water quality situation. One possible outcome is that the Water Resources Department will propose in the proposed final order that your application be denied. You are encouraged to contact Tom Rosetta, (503) 229-5053 at DEQ to discuss the specifics of your application. Often, this information exchange can allow the water use to occur and at the same time keep the water quality situation from worsening.

If you have any questions:

Questions about the status of your application, processing timelines, or your upcoming Proposed Final Order should be directed to our Water Right Information Group at (800) 624-3199 or (503) 378-8455 extension 499. Feel free to call me at (800) 624-3199 or (503) 378-8455 extension 229 if you have any questions regarding the contents of this letter. Please have your application number available if you call.

Sincerely,



Anita M. Huffman
Water Rights Specialist

cc: Regional Manager, Watermaster District 16, Water Availability Section
enclosures: Flow Chart of Water Right Process
Stop Processing Form

R-84036
wab 02-01053 pou 02-01053
gw

APPLICATION FACT SHEET

Mail to: *Applicant, Watermaster, District Biologist (ODFW)*
If necessary, also mail to : Regional Water quality manager (DEQ), and DOA

Application File Number: R-84036

Applicant: GLEN WESTBROOK WESTBROOK, MARY

County: MARION

Watermaster: District 16

Priority Date: January 7, 1999

Source: WEAVER GULCH, A TRIBUTARY OF MILLER CREEK

Use: IRRIGATION AND RECREATION

Quantity: 121.0 ACRE-FEET

Basin Name & Number: Willamette, #02

Stream Index Reference: Volume 7 SANTIAM R MISC

Point of Diversion Location: NWSE, SECTION 14, T 9S, R3W, W.M.;

Place of Use: NWSE, SECTION 14, TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Tuesday, April 6, 1999

PUBLIC NOTICE DATE: Tuesday, April 13, 1999

30 DAY COMMENT DEADLINE DATE: Thursday, May 13, 1999

STATE OF OREGON

COUNTY OF MARION

CERTIFICATE OF WATER RIGHT

This Is to Certify, That ESTATE OF JANET GREY STELWER
of R. H. Bassett 325 Oregon Building, Salem, State of Oregon 97305, has made proof

to the satisfaction of the STATE ENGINEER of Oregon, of a right to store the waters of an unnamed stream, tributary of Miller Creek, tributary of Willamette River, to be appropriated under Application No. 22916, Permit No. 18066,

for the purposes of irrigation, domestic and fish propagation

under Reservoir Permit No. R-916 of the State Engineer, and that said right to store said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from November 18, 1947,

that the amount of water entitled to be stored each year under such right, for the purposes aforesaid, shall not exceed 0.8 acre-feet.

The reservoir is located in Section 14 Lot 2 (SE 1/4) Tp. 9 S. , R. 3 W. , W. M.

WITNESS the signature of the State Engineer,
affixed this 20th day
of November , 19 57

LEWIS A. STANLEY
State Engineer.

Mailing List for IR Copies

Application #R-84036

IR Date: March 23, 1999

Original mailed to:

Applicant: GLEN WESTBROOK WESTBROOK, MARY, 3022 UMATILLA PLACE,
ALBANY, OREGON 97321

Copies sent to:

1. WRD - File # R-84036
2. WRD - Water Availability: Ken Stahr

Copies Mailed
By: <u>HW</u>
(SUPPORT STAFF)
on: <u>3/19/99</u>
(DATE)

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # District 16
4. WRD - Regional Manager (not Bob Main):NWR
5. ODFW District Biologist: (MARION County)Nancy Leibowitz
6. DEQ (Portland): Tom Rosetta

Copies sent to Other Interested Persons (*CWRE, Agent, Well Driller, Commenter, etc.*)

7. CWRE: Corby Boatwright _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

ID# AMH

COPY#14 IR



Oregon

John A. Kitzhaber, M.D., Governor

April 27, 1999

Water Resources Department

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

Martin G. Boatwright, P.E.
Boatwright Engineering, Inc.
2613 12th Street SE
Salem, OR 97302

Re: Proposed Westbrook Dam
Application R-84036

Dear Mr. Boatwright:

The revised plans and specifications for the proposed dam and reservoir located in **Section 14, T9S, R3W, Marion County** have been reviewed and approved. The applicant will be notified by letter when and if a reservoir permit is issued for this project. One copy of the approved technical specifications and blue-line drawings will be returned to the applicant at that time. All other documents associated with 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 centerline height approximately 25 feet above natural ground surface and normal reservoir storage approximately 118.9 acre-feet (vs. 121 ac-ft listed on the application form). It is expected that a topographic survey will be performed to verify actual reservoir capacity once the project has been completed.

Because this project exceeds Oregon's statutory size limits for exempt dams and reservoirs, construction must be supervised by a licensed engineer. Since you are the engineer of record, it is assumed that you will 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. Please note that there could be other conditions unrelated to dam safety that 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 permit being canceled.

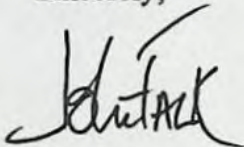
Any significant deviation from the approved design must be submitted to WRD Dam Safety for our review. If changes become necessary during construction, engineers from this office are available for consultation and are authorized to grant field approval provided the changes are consistent with existing engineering and construction practices and standards. Please advise this office of your construction schedule so that we may perform periodic field inspections. We are particularly

interested in viewing the foundation materials in the cutoff trench excavation prior to compaction of embankment backfill.

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 certification and a final set of asbuilts. It is important that an engineer certify the finished product because, without proper documentation, 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 A. Falk, P.E.
Safety of Dams

c: Glenn & Mary Westbrook - Applicant
Bill Ferber - Watermaster District #16
WRD Water Rights Section
file

enclosure

MEMORANDUM

DATE: April 27, 1999
TO: Water Rights Section
FROM: John A. Falk, Dam Safety (x222) *John A. Falk*
SUBJECT: Conditions of Permit for an Earthen Dam

e-Version on:

M:\groups\ts\dams

file: r-83406.app

Please include the following items as conditions of permit for construction of the proposed WESTBROOK DAM; RESERVOIR APPLICATION R-84036:

- The outlet gate shall be cycled at least once each year and shall be fully operational at all times.
- Routine maintenance of the dam, its spillway 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 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.
- Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.
- No fill shall be placed until preparation of the foundation and excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.
- 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 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 WATER RESOURCES DEPARTMENT
DAM SAFETY

[Signature]
APPROVED
REVIEW *Blutau*
DATE 26 April - 1999

GLENN & MARY WESTBROOK DAM
AND STORAGE RESERVOIR
SECTION 14, TOWNSHIP 9 SOUTH,
RANGE 3 WEST.
WILLAMETTE MERIDIAN,
MARION COUNTY, OREGON

RECEIVED

FEB 12 1999

**WATER RESOURCES DEPT.
SALEM, OREGON**



Boatwright Engineering Inc.
2613 12th ST SE, SALEM, OREGON 97302
civil engineers • land surveyors

GLENN & MARY WESTBROOK DAM

AND STORAGE RESERVOIR

SECTION 14, TOWNSHIP 9 SOUTH,
RANGE 3 WEST.

WILLAMETTE MERIDIAN,
MARION COUNTY, OREGON

DECEMBER 1998

(Revised February 1999)

TECHNICAL SPECIFICATIONS

GLENN AND MARY WESTBROOK DAM AND STORAGE RESERVOIR

SECTION 14, TOWNSHIP 9 SOUTH, RANGE 3 WEST,

WILLAMETTE MERIDIAN, MARION COUNTY, OREGON

DECEMBER 1998 (Revised February 1999)

GENERAL:

The purpose of these specifications and the attached plans is to describe the local conditions, topography drainage basin pipe design flows for a 1% frequency occurrence storm, the method of construction and material standards to be met required to construct the dam and reservoir for Glenn and Mary Westbrook. All materials used will be new of the quality and specifications controlling.

LOCATION:

The dam is located off the Jefferson exit of Interstate 5 in Section 14, Township 9 South, Range 3 West, Willamette Meridian, Marion County, Oregon about 3200 feet east of Highway 99E.

The dam is located across Weaver Gulch at the intersection of two seasonal streams with a drainage basin of 505 acres of predominately farm lands and timber lying between 340 and 1090 feet USGS. The drainage basin is roughly 6000 feet in length. During a 1% frequency occurrence storm the basin is projected to produce 197.4 cubic feet per second of runoff. With up drainage basin lands zoned Exclusive Farm Use Zoning there should not be significant change in land use in the future, resulting in no significant change in runoff quantities.

TOPOGRAPHY:

The northside of the swale has a natural slope of 10% and the east slope is about 4.5%. The submerged land lying northeast to southwest maintains approximately a 3% slope and increases into the foothills. Residences exist off site above the dam on the south side of the property.

SOILS ON SITE:

The Marion County soils map identifies the soils on site at the dam location as Hazelair silt loam in the floor of the swale and side slopes. Road cuttings on the north bank indicate fractured sandstone at lower depths. Samples taken from the test holes representing the soils at the dams were non-plastic dark brown silty sand with a maximum dry density of 87 lbs. per cubic foot and an optimum moisture of 32%.

DAM:

The swale with a drainage basin of 505 acres requires a spillway sized to pass 197.4 cfs, with 2 feet of freeboard. A splash board trickle tube structure will allow the dam to pass a 10 year storm through the trickle tube and a 100 year storm will be diverted to the spillway. Boards will be placed in the trickle tube structure to obtain more storage during the irrigation season.

The dam will consist of a conventional earth fill structure with seepage control keyway, 3 to 1 slopes and 12 feet top width across the swale and a 8" CMP drain outlet controlled by a slide valve with operating stem. The spillway will be at the north end of the dam in natural ground and consist of a reinforced concrete structure with a removable splash board type flow blockage dam of wood planks supported by a concrete and structural steel framing system.

CLEARING AND GRUBBING:

The areas to be occupied by the dam and appurtenant works and the surface of all borrow pits shall be cleared of all trees, stumps, roots, brush and other objectionable materials, and the cleared materials shall be disposed of in manner satisfactory to the engineer. All materials to be burned shall be piled neatly and when in suitable condition shall be burned by others. Piling for burning shall be done in such manner and in such locations as to cause the least fire risk, when burned.

EXCAVATION FOR THE DAM FOUNDATION:

The entire area to be occupied by the dam, or such portions thereof as maybe directed by the engineer, shall be stripped to a sufficient depth to remove all vegetation and materials not suitable for the foundation of the dam embankment as determined by the engineer. The unsuitable materials to be removed shall include all topsoil, rubbish, vegetable matter of every kind, roots and all other perishable or objectionable materials that might interfere with the proper bonding of the embankment with the foundation or with the proper compacting of the materials in the embankment or that may be objectionable. Accurate trimming of the slopes of the excavation for the foundation of the dam will not be required, but the excavation shall conform as closely as practicable to the lines and grades shown on the drawings or established by the engineer.

Prior to placing any fill on the dam foundation the surface shall be scarified and a moisture content, plus or minus 2% from optimum, shall be achieved by adding water or aerating the native soils.

EXCAVATION FOR KEYWAY:

After the stripping and excavation for the foundation of dam has been completed, a keyway shall be excavated on the location and to the dimensions, slopes and depths shown on the drawings or directed by the engineer, to ensure against leakage under the dam. During the progress of the work, it may be found necessary or desirable, as determined by the engineer, to vary the slopes or the dimensions of the excavations from those shown on the drawings.

CONSTRUCTION OF THE OUTLET WORKS:

The outlet piping shall be installed after the contractor has cleared, stripped the dam foundation, excavated the cut off trench and completed the construction of the dam to a height of 4' above the natural ground line. This will allow the piping to be excavated into the fill with a minimum use of heavy equipment near the piping.

The outlet pipe for the release of water from the reservoir shall be assembled, erected and supported firmly and accurately in place in a manner satisfactory to the engineer, to the line and grade shown on the drawings or approved by the engineer.

The outlet drain pipe shall be 8", 16 gauge, 2 2/3" x 1/2" corrugated asphalt coated metal pipe laid in a trench excavated in compacted fill on a concrete cradle of 3000 psi concrete, placed against soil free of loose materials. The concrete shall be a minimum of 6" thick below the pipe invert forming a contact area of a minimum of 180 to 240 degrees on the pipe. Five reinforced concrete cast in place cutoff collars 8" formed (12" unformed) with #4 bars at 12" OC bothways 8' x 8' square at 12 feet on centers shall be installed along the drain line as shown on the plans.

Cutoff collars shall be reinforced as shown on the plans and allowed to cure 2 days or until a compressive strength of 2000 psi is obtained, prior to backfilling and compaction in proximity to the collars. Backfilling shall be with select soils, within 2%, plus or minus, of optimum moisture compacted in 6" to 8" lifts. To limit pressure and damage to the collars, the backfill on one side of the cut-off collar shall be no more than 2 feet above the surface on the opposite side.

The outlet piping shall be equipped with a sluice gate type control valve on the entrance to the pipe as shown on the plans. This sluice gate shall be a Waterman "8" Model C-20 canal gate, or approve equal, capable of a maximum seating head of 35 feet.

The outlet piping valve shall be operated via a operating stem and wheel installed up the

face of the dike-berm as shown on the plans. Maximum sluice valve operating stem support 12' OC.

EXCAVATION IN BORROW PITS:

All materials required for the construction of the dam embankment and for backfill, shall be taken from borrow pits as directed by the engineer. The location and extent of all borrow pits shall be as directed by the engineer and the engineer reserves the right to change the location of such borrow pits or to locate additional borrow pits as required. The sites of borrow pits shall be carefully stripped of sod, topsoil, loam, and other objectionable matter. Stripping operations shall be as determined by the engineer, and shall be confined to such small area and carried on only so far in advance as will permit the economical excavation in the borrow pit of the material required for the embankment. When excavation in the borrow pit is discontinued for a day or longer, the surface of the borrow pit where excavation is in progress shall be disked or mulched, all for the purpose of conserving to the fullest extent the natural moisture in the material to have the optimum moisture content as provided in subparagraph 2 (d) under "EMBANKMENT" of these specifications. Additional moisture may have to be added to the natural soils to develop moisture content within 2% plus or minus of optimum, which shall occur prior to placement in the fill as far as it is practical. The disposal of all materials wasted by stripping shall be subjected to the approval of the engineer. Borrow pits shall be operated so as not to mar the usefulness or appearance of any part of the work or of any other property of the owner. Borrow pits and the surfaces of wasted materials shall be left in a reasonable smooth and even condition satisfactory to the engineer. If materials unsuitable or not required for embankment or backfill purposes are found in borrow pits, such materials shall be left in place or excavated and wasted, as directed by the engineer.

DISPOSAL OF EXCAVATED MATERIALS:

Excavated materials that are unsuitable or are not required for the above described purposes and all unsuitable materials removed in stripping operations shall be wasted. The disposal of all excavated materials that are wasted shall be subject to the approval of the engineer. All waste piles shall be located where, in the opinion of the engineer, they will not interfere harmfully with natural flow of the drainage, with the operation of the reservoir, or with the discharge to or from the spillway or outlet works, and where they will not detract from the appearance of the completed structures or interfere with the accessibility of the structures for operation. When required by the engineer, waste piles shall be leveled and trimmed to reasonably regular lines.

If unsuitable materials that will not contain stored water are encountered in the borrow area of the impoundment area the engineer may direct these areas to be over excavated 2 feet deep below the finish surface elevation shown on the plans and the area filled with select soils placed in 6" to 8" compacted lifts to achieve the finish grades shown.

EMBANKMENT

1. EMBANKMENT CONSTRUCTION, GENERAL:

For the purpose of these specifications, the term "Embankment" includes the earth fill portion of the dam. The embankment shall be constructed to the lines and grades established by the engineer, which, in general, will be in the lines and grades shown on the drawings, increased by such heights and widths as may be determined by the engineer to be necessary to allow for settlement. No brush, roots, sod, or other perishable or unsuitable materials, as determined by the engineer, shall be placed in the embankment. The suitability of each part of the foundation for placing embankment materials thereon and off all materials for use in embankment construction will be determined by the engineer. No material shall be placed in the embankment when either the material or the foundation or embankment on which it would be placed is frozen. Each portion of the embankment shall be constructed in accordance with the specifications therefor, including the provisions of this paragraph. Each load of the material placed in the embankment, whether from excavation or other parts of the work or from borrow pits, shall be placed in the location designated by the engineer, regardless of the classification of the excavation.

2. EARTH FILL IN EMBANKMENT:

The earth fill portions of the dam embankment, shall be constructed to the lines and grades shown on the drawings or established by the engineer. The earth fill portion of the dam shall be placed at or beyond the optimum moisture content on samples taken from the borrow area.

(a) Preparation of Foundation - The foundation, except rock surfaces, for the earth fill shall be prepared by leveling and rolling, so that the surface materials of the foundation will be as compact and well-bounded with the first layers of the earth fill.

(b) Materials - The earth fill portion of the dam embankment shall consist of a mixture of the clay and loams available from borrow pits in the vicinity of the work. Operations in the excavation of the materials for the earth fill shall be such as will result in an acceptable gradation of the materials when compacted in the fill. The engineer will designate the depths of cut in all parts of the borrow pits or other excavation to be used in the earth fill necessary for obtaining the desired gradation of material, and the cuts shall be made to such designated depth. Each load of earth fill materials delivered on the earth fill shall be the equivalent of a mixture of materials obtained from an approximately uniform strip or cutting from the full height of the face of the excavation.

© Placing - The distribution and gradation of the materials throughout the earth fill shall be as shown on the drawings or as directed by the engineer and shall be such that the fill will be free from lenses, pockets, streaks, or layers of material differing materially in texture or gradation

from the surrounding material. The combined excavation and placing operations shall be such that the materials when compacted in the earth fill will be blended sufficiently to secure the best practicable degree of compaction, impermeability, and stability. Successive loads of material shall be dumped on the earth fill so as to produce the best practicable distribution of the materials, subject to the approval of the engineer, and for this purpose, the engineer may designate the locations in the earth fill where the individual loads shall be deposited, to the end that the most impervious materials shall be placed in the central upstream portion of the earth fill and the more pervious materials shall be placed so that the permeability of the fill will gradually be increased toward the upstream and downstream slopes of the earth fill. The mixture of earth shall be placed in the earth fill in continuous, approximately horizontal layers not more than 6 inches in thickness after being rolled as herein specified. If, in the opinion of the engineer, the surface of the prepared foundation or the rolled surface of any layer of earth fill is too dry or smooth to bond properly with the layer of material to be placed thereon, it shall be moistened and/or scarified to the satisfaction of the engineer before the next succeeding layer of each fill material is placed. The earth fill on each side of the concrete cutoff walls where constructed shall be kept at approximately the same level as the placing of the earth fill progresses, and the walls shall be protected carefully against displacement or other damage. Hand operated vibrating plate or Jumping Jack type compactor shall be used against the face of all concrete structures to insure proper density of the earth embankment in these critical areas. The slope, of the earth fill portion of the dam embankment shall be compacted thoroughly, shall be reasonably true to line and grade, and all projections of more than 6 inches outside of the neat lines of the earth fill shall be removed during final grading.

(d) Moisture Control - Prior to and during the compacting operations, the material in each layer of the earth fill shall have the optimum practicable moisture content required for compaction purposes, as determined by the engineer, and the moisture content shall be uniform throughout the layer. The optimum moisture content is about 32, with an ideal range of moisture running between 29% and 33%. Insofar as practicable, as determined by the engineer, the application of water to the material for this purpose shall be done at the site of excavation and shall be supplemented, as required, by sprinkling on the earth fill if necessary. Harrowing or other working of the material may be required to produce the required uniformity of water content.

(e) Compaction - When each layer of material has been conditioned to have the optimum practicable moisture content required for compaction purposes, as provided in subparagraph (d), it shall be compacted by means of a sheeps foot roller or a tamping roller or, in the opinion of the engineer the required compaction as hereinafter described can thereby be secured by the travel over it of the material hauling and placing equipment. A compaction of the material to a density of not less than ninety-five percent of the maximum density obtained when tested by the Standard Laboratory Method of Test Compaction and Density of Soil, ASTM D-698 (Standard Proctor) shall be secured. The thickness of the layer of material before compaction and the number of times passes over by the compacting equipment will be determined by the engineer on the basis of securing the degree of compaction described above. If

the moisture content is less than the optimum for compaction, the rolling shall not proceed except with the specific approval of the engineer, and in that event additional rolling shall be done, as directed by the engineer, to obtain the required compaction. If the moisture content is greater than the optimum for compaction, the rolling shall be delayed until such time as the material has dried until it contains only the optimum moisture content. When material placing equipment is used to secure compaction, care shall be taken to so route and spread the travel of the equipment to and over the surface of the dam being compacted that uniform and maximum compaction will be secured. Consecutive travel of the equipment over the same route so as to form ruts in the surface of the embankment will not be permitted.

CONCRETE

1. Concrete:

All concrete required to be placed under these specifications shall have a design strength of 3000 psi at 28 days. All concrete shall be placed with a slump less than 4" except for the spillway. It is contemplated that the normal mix will be in the proportion of 1 cubic foot (1 sack) of cement, 2 cubic feet of sand and 5 cubic feet of broken rock or gravel, with the use of not more than 6 ½ gallons of water to each sack of cement, but the exact proportions in which these materials are to be used will be determined by the engineer and will be based upon securing a concrete having suitable workability, density and required strength. The sand and broken rock or gravel used shall be free from injurious amount of dust, organic matter, loam, and other deleterious substances. The sand shall pass through a screen having 3/16 inch square openings and the broken rock shall pass through a screen having openings of a size sufficient to pass the largest maximum size of aggregate it is practical to use and secure satisfactory placing of the resulting concrete as determined by engineer. Both the sand and the coarse aggregate shall be well graded between the fines and the coarses within the size limitations to provide a minimum of voids and a suitable workability without the use of excessive quantities of cement. The water used in the concrete shall be reasonably clean, and free from objectionable quantities of silt, organic matter, alkali, salts and other impurities. The mixing of each batch shall continue not less than 1 ½ minutes after all materials are in the mixer, during which the mixer shall rotate at the speed for which it was designed. The concrete shall be placed in the work before it has stiffened sufficiently to require tempering. Concrete when deposited shall have a temperature of not more than 90° F. nor less than 50° F. in freezing weather.

2. Forms:

Forms shall be used, whenever necessary to define the concrete and hold it to required lines. All exposed surfaces having slopes of 1 to 1 or steeper shall be formed unless otherwise directed or approved by the engineer. The use of forms will not be required where the character of the material cut into is such that it can be trimmed to the prescribed lines and will stand without caving or sloughing until the concrete has been placed. The forms shall have sufficient

strength and rigidity to hold the concrete and to withstand the pressure and tamping without deflection from prescribed lines. All dirt, chips, blocks and any other loose materials shall be removed from inside of forms and from other surfaces upon which concrete is to be placed. The surfaces of all forms and all other surfaces to be in contact with the concrete shall be clean, rigid, tight and smooth. In general, forms shall remain in place until their removal is authorized by the engineer and shall then be removed with care so as to avoid injury to the concrete.

3. Placing:

Concrete shall be deposited in all cases as nearly as practicable directly in its final position and shall not be caused to flow in a manner to cause segregation. Excessive separation of coarse aggregate caused by the concrete falling freely from too great a height or by striking forms or reinforcement bars will not be permitted. All formed concrete shall be placed in continuous approximately horizontal layers the thickness of which generally shall not exceed 12 inches. Each layer of concrete shall be worked with suitable vibrator or other appliances until the concrete has been consolidated to the maximum practicable density, is free from pockets of coarse aggregates, and closed snugly against all surfaces of forms and embedded materials.

4. Finishing:

The surface of concrete finished against forms shall be smooth, free from projections and thoroughly filled with mortar. Immediately upon the removal of forms all holes and voids shall be neatly filled with cement mortar of the same proportions of cement and sand as the mortar in the concrete. All sharp angles or surfaces which will be exposed to view and or other surfaces, where required, shall be pounded, leveled or filled by the use of molding strips or suitable molding or finishing tools. Exposed surfaces of concrete not finished against forms shall be brought to a uniform surface and at the proper time work with a suitable tools to a smooth steel trowel or wood float finish as directed by the engineer. The use of neat cement or a mixture of cement and sand to serve as a drier or to hasten the time and ease of finishing will not be permitted.

5. Curing and Protection:

Exposed surfaces of concrete shall be protected from the direct rays of the sun for at least three days. All concrete shall be continuously moist for at least ten days after the concrete has been placed. In freezing weather suitable means shall be provided for maintaining the concrete at a temperature of at least 50° F for not less than 72 hours after placing or until the concrete has thoroughly hardened. All concrete shall be protected from freezing for not less than two weeks.

6. Damaged or Defective Concrete:

Concrete damaged by freezing, or from any other cause, and any concrete found defective at any time before completion of the work, shall be removed and replaced by concrete acceptable

to the engineer.

7. Reinforcement Bars:

Steel reinforcement bars shall be placed in the concrete as shown on the drawings or when directed by the engineer. The reinforcement bars shall be so secured in position that they will not be displaced during the placing of the concrete and care shall be exercised to prevent any disturbance of reinforcement bars in concrete that has already been placed. Before reinforcement bars are placed, the surface of the bars shall be cleaned or rust, scale, dirt, grease or other foreign substances which in the opinion of the engineer are objectionable. All reinforcing shall be deformed with #4 with a yield strength of 40,000 psi and #5 and larger, a yield strength of 60,000 psi.

8. Spillway With Removable Splash Board Control:

The reinforced concrete spillway as shown on the plans shall be equipped with cutoff walls formed against undisturbed earth to limit leakage under or around the dam.

9. Rip Rap:

The spillway shall be equipped with 12" of class 8" rip rap to a depth of 18" rip rap shall be hard, durable angular rock conforming to the specifications Section 2330.10 of the Standard Specifications for Highway Construction 1991 edition with a gradation as follows:

100# to 60#	20% by weight
60# - 25#	30% by weight
25# - 2#	40% by weight
< 2#	10% by weight

Rip rap shall be hand placed against concrete walls.

10. Removable Splash Board Spillway Structure:

The basic reinforced concrete spillway structures shall be constructed to the lines and grades shown on the plans. All cut off wall below the finish floor slab and footing shall be cast against compacted earth to insure a minimum leakage. All cut off walls cast against the earth with compacted earth backfill against both forces of the wall shall be reinforced with #4 at 12" on centers bothways at the centerline of the wall. All walls backfilled against both faces shall be backfilled in lifts not to exceed 2 feet from one side of the wall to the other at any time.

The spillway shall be fabricated using 3,000 psi compressive strength concrete placed at a slump of 5" to 7" and deformed rebars possessing a yield strength of 40,000 psi, with all rebar lapped 18" or more.

The cut off wall 8" x 4'-0" shall be unformed below the finish floor slab, reinforced with #4 @ 12" o.c. both ways at the center line of the wall.

The spillway floor slab shall be 10" thick setting on native undisturbed soil. The floor slab shall be reinforced with #4 bars at 12" on centers both ways 3" clear from the bottom face. Round all exposed concrete corners to limit the potential for chipping from construction activities.

The splash board center wall shall be 12" wide, 3 feet long and 2.5 feet high as shown on the plans, set centered over the concrete cut off wall, reinforced with #4 with hooks ends @ 6" OC alternating hook direction. Vertical reinforcement will be #4 tied to horizontal hooks with min 3" clear.

The 8" x 4'-0" cut off walls extending outside the spillway walls shall be formed, reinforced with #4 @ 12" o.c. both ways.

The plank recess into the concrete shall be reinforced with 1 1/2" X 1 1/2" X 1/4" angle iron with #4 bars welded to the middle of the angle at a 45 degree angle tied to the centerline horizontal reinforcing steel.

The walls shall have 24 hours prior to stripping and 7 to 14 days prior to backfilling with select native soils in 6" to 8" compacted lifts.

11. Trickle Tube Splash Board Structure

The trickle tube splashboard structure shall be fabricated using 3000 psi compressive strength concrete. Round all exposed concrete corners to limit the potential for chipping from construction activities.

Concrete walls shall be 8"X8' with #4 @ 12" OC each way @ the centerline of walls. Wood planks shall be used as specified in section 12.

12. Wood Planks:

Wood planks shall be #2 or better Douglas fir cut to allow 1/4" clearance between the end of the support beams, etc. 3" planks shall be utilized in any width the owner desires. The wood planks shall be positioned in the recessed slots in reinforced concrete with wood blocks nailed into the planks and a double wedge wood block, to insure tight fit, nailed at the top plank in each bay.

MISCELLANEOUS CONSTRUCTION

1. Outlet Pipe:

The outlet pipe for the release of water from the reservoir shall be assembled, erected and supported firmly and accurately in place in a manner satisfactory to the engineer, to the line and grade shown on the drawing or established by the engineer and to provide for the concrete bedding of the piping. All outlet pipe shall be bedded in concrete.

A. Vertical trickle tube shall be 42" diameter, coated 2 2/3" x 1/2" corrugated galvanized steel pipe for 12 gauge asphalt coated.

B. Trickle Tube Base shall be shop fabricated with a 42" run, 30" run and 8" run as shown on the plans of 12" gauge 2 2/3" x 1/2" corrugated asphalt coated galvanized steel pipe.

C. Horizontal run piping from the trickle tube to down stream outlet shall be made using 30" diameter 2 2/3" x 1/2" asphalt coated, corrugated galvanized steel pipe of 14 gauge or heavier section.

D. Reservoir drain pipe shall be 8" diameter coated 2 2/3" x 1/2" corrugated asphalt coated, galvanized steel pipe of 14 gauge wall thickness.

E. Cut off collars: 4 cut off collars shall be installed on the 30" CMP outlet and one on the 8" drain pipe as shown on the plans using cast in place reinforced collars 8" thick, at the dimensions shown on the plans reinforced with #4 bar at 12" off center both ways.

F. Drain valve: A slide type sluice valve shall be installed on the upstream end of the 8" CMP drain Waterman C20f or approved equal; capable of 35 feet of seating head with a 1 1/4" pipe operating stem installed as shown on the plans.

Carlson Testing, Inc.

Construction Inspection & Related Tests
Geotechnical Consulting

February 23, 1998
#98-1280.CTI

P.O. Box 23814
Tigard, Oregon 97281
Phone (503) 684-3460
FAX (503) 684-0954

Boatwright Engineering Inc
2613 12th Street SE
Salem, Oregon 97302

Re: Glenn Westbrook Earth Fill Dam
Marion County, Oregon
Plasticity Index

Gentlemen:

Following are results of plasticity index tests conducted on a sample of brown clay silt loam sampled by your representative on February 5, 1998. Sample #1 represents TP 1, 2, 3 @ 1.5'-6' and sample #2 represents TP 4, 5 @ 1.5'-6'. These samples were received in our laboratory on February 5, 1998 and tested on February 11, 1998. Following are the test results:

Plasticity Index - ASTM D4318:

Sample #1

Plastic Limit - 29.6%
Liquid Limit - 48.2%
Plasticity Index - 18.6%

Sample #2

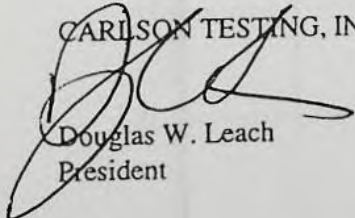
Plastic Limit - 22.6%
Liquid Limit - 47.8%
Plasticity Index - 25.2%

Our reports pertain to material tested/inspected only. Information contained herein is not to be reproduced, except in full, without prior authorization from this office.

If there are any further questions regarding this matter, please do not hesitate to contact this office.

Respectfully submitted,

CARLSON TESTING, INC.


Douglas W. Leach
President

kas

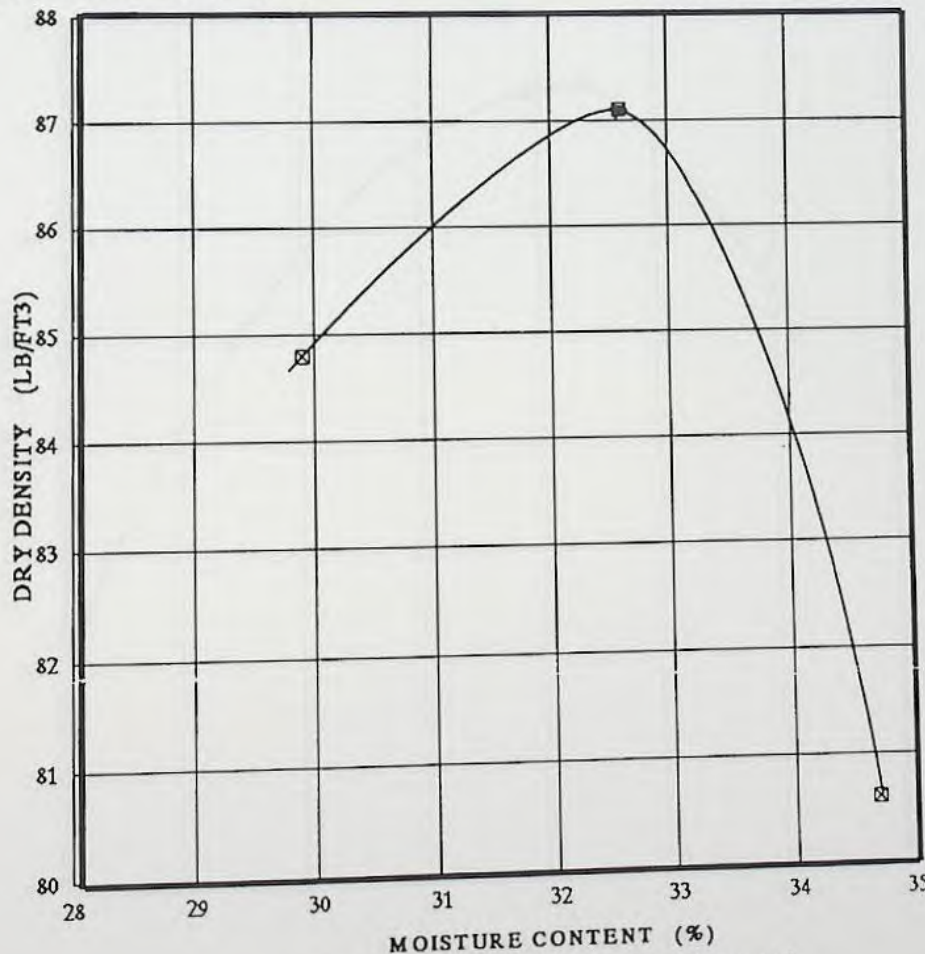
word/lab/plG1315a

MOISTURE - DENSITY RELATIONSHIP CURVE

P.O. Box 23814
Tigard, Oregon 97281
Phone (503) 684-3460
FAX (503) 684-0954

Client: BOATWRIGHT ENGINEERING INC. 02-23-98
Project: GLENN WESTBROOK EARTH FILL DAM 98-1280
Location: ON-SITE (TP 1, 2, 3 @ 1.5'-6')
Sample: COMPOSITE SILTY CLAY LOAM **BROWN**
Test Method: ASTM D698 METHOD "B" C136, D2216
Sample Methods: AASHTO T-2 Preparation Method: MOIST
Type of Comp. Hammer: CIRCULAR Compactive Effort: MANUAL
Percent Passing #4 Sieve: 97.6% Oversized Material: REMOVED
Date Received: 02-05-98 Date Tested: 02-11-98

OPTIMUM MOISTURE: 32.6 % MAX. DRY DENSITY: 87.1 lb/ft³



PI= 18.6

Zero Air Voids Line Based on Assumed
Specific Gravity = 2.73

CC:

SAMPLE #1

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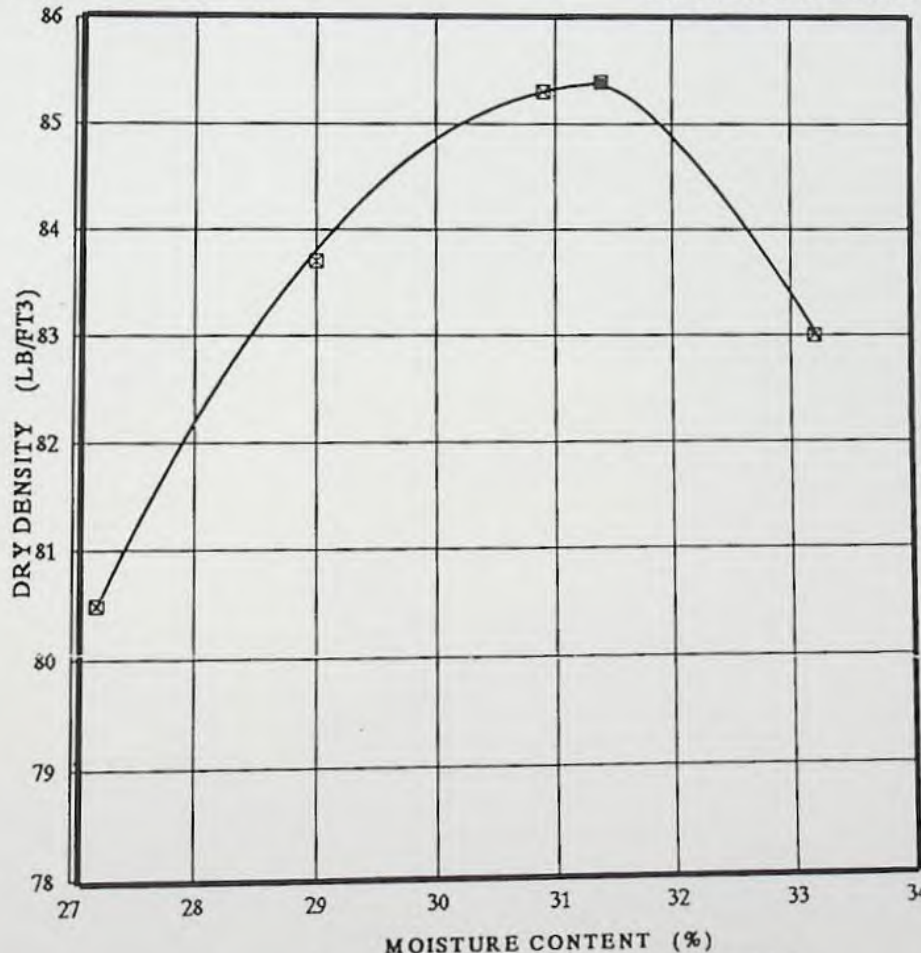
P.O. Box 23814
Tigard, Oregon 97281
Phone (503) 684-3460
FAX (503) 684-0954

MOISTURE - DENSITY RELATIONSHIP CURVE

Client:	BOATWRIGHT ENGINEERING INC.		
Project:	GLENN WESTBROOK EARTH FILL DAM		02-23-98 98-1280
Location:	ON-SITE (TP 4, 5 @ 1.5'-6')		
Sample:	MEDIUM BROWN CH		
Test Method:	ASTM D698 METHOD "B" / C136, D2216		
Sample Methods:	AASHTO T-2	Preparation Method:	MOIST
Type of Comp. Hammer:	CIRCULAR	Compactive Effort:	MANUAL
Percent Passing #4 Sieve:	96.0%	Oversized Material:	REMOVED
Date Received:	02-05-98	Date Tested:	02-10-98

OPTIMUM MOISTURE: 31.4 %

MAX. DRY DENSITY: 85.4 lb/ft³



PI = 25.1

Zero Air Voids Line Based on Assumed
Specific Gravity = 2.77

CC:

SAMPLE #2

Information contained herein is not to be reproduced, except in full, without prior authorization.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
- 2. Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Glenn & Mary Westbrook
3022 Umatilla Place
Albany, Oregon 97321

4a. Article Number

PS6413

4b. Service Type

- Registered Certified
- Express Mail Insured
- Return Receipt for Merchandise COD

7. Date of Delivery

3/25/99

5. Received By: (Print Name)

84036; 84037
Glenn Westbrook

6. Signature: (Addressee or Agent)

Glenn Westbrook

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

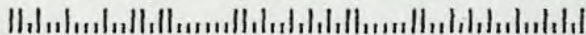


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

Water Resources Department
158 12th Street NE
Salem, Oregon 97301

W/R Hannah





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

CERTIFIED MAIL
Return Receipt Requested

March 23, 1999

GLENN AND MARY WESTBROOK
3022 UMATILLA PLACE
ALBANY, OR 97321

RE: Application Files # R-84036 and S-84037

Dear Applicants:

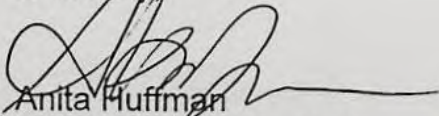
Your Initial Review has been processed, and I found that additional information is required to complete your application for water use. The following information must be received:

- ▶ **There are existing rights, certificates 23305 and 23306, covering portions of land proposed under this application. Prior to proceeding with applications R-84036 and S-84037 the Department must receive a completed form authorizing cancellation of the existing rights, a completed affidavit of diminution of the existing rights, a transfer of the existing certificates, or other means of dealing with the conflict with the existing certificates and the use proposed under this application.**

Please submit the requested items by **May 13, 1999**. If we do not receive the items requested above by this date, or a request for time out from processing, 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 at (503) 378-8455, extension 229, or toll free within Oregon at 1-800-624-3199.

Sincerely,


Anita Huffman
Water Rights Examiner

cc: Watermaster District 16, File

STATE OF OREGON

COUNTY OF MARION

CERTIFICATE OF WATER RIGHT

This Is to Certify, That ESTATE OF JANET GREY STELWER
of R. H. Bassett
325 Oregon Building, Salem, State of Oregon 97305, has made proof

to the satisfaction of the STATE ENGINEER of Oregon, of a right to store the waters of
an unnamed stream, tributary of Miller Creek, tributary of Willamette River, to
be appropriated under Application No. 22916, Permit No. 18066,

irrigation, domestic and fish propagation

for the purposes of

under Reservoir Permit No. R-916 of the State Engineer, and that said right to store said
waters has been perfected in accordance with the laws of Oregon; that the priority of the right
hereby confirmed dates from November 18, 1947,

that the amount of water entitled to be stored each year under such right, for the purposes afore-
said, shall not exceed 0.8 acre-feet.

The reservoir is located in Section 14 Lot 2 (SE 1/4 SE 1/4) T. 9 S. , R. 3 W. ; W. M.

WITNESS the signature of the State Engineer,

affixed this 20th day
of November , 19 57

.....LEWIS A. STANLEY.....
State Engineer.



Oregon

John A. Kitzhaber, M.D., Governor

February 1, 1999

Martin G. Boatwright, P.E.
Boatwright Engineering, Inc.
2613 12th Street SE
Salem, OR 97302

Re: Proposed Westbrook Dam
Application R-84036
Height: ±25', Storage: ±119 acre-feet

To:
WATER RIGHTS

Dear Mr. Boatwright:

Thank you for submitting for our review the preliminary plans and specifications for the referenced embankment dam located in **Section 14, T9S, R3W, Marion County**. We understand the proposed structure will be constructed in-channel, impounding the water of Weaver Gulch, a tributary to Miller Creek and the Willamette River.

I have returned the marked up set of preliminary design drawings for revision (enclosed) illustrating the desired changes. The marked set of specifications are included also. A brief summary of those items noted for correction are listed below:

DRAWINGS

- ▶ The depth of the concrete cutoff at the crest elevation of the emergency spillway (pg. 2/2) is not consistent throughout the plans, i.e. 2.5' vs 4.0'; we recommend nothing less than 3.0'.
- ▶ A discrepancy appears to exist between elevations shown for the trickle-tube invert (338.38) and the crest of the emergency spillway (338.48). If your intent is to have the trickle-tube constructed 1/10 lower as shown, then that elevation (338.38) should be used for the area/capacity curve shown on page 1 of the drawings.
- ▶ Please add to the Dam Centerline Profile (pg. 1) a statement advising the contractor/owner that the "ultimate depth of cut-off trench is subject to the discretion of the engineer based on soil and rock conditions encountered during excavation".
- ▶ We suggest the outlet conduit bedding be not less than ½ pipe diameter, or 6-inches. The bedding material should extend up and around the sides of the pipe to its middle (springline) to help eliminate crevices and voids typically caused by inadequate compaction of newly placed fill surrounding the underside of the pipe. The cost of non-soil bedding is relatively inexpensive, and the extra amount would be offset by reduced labor costs associated with careful hand compaction necessary for proper placement of soils in those areas.



Oregon

John A. Kitzhaber, M.D., Governor

February 1, 1999

Water Resources Department

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

Martin G. Boatwright, P.E.
Boatwright Engineering, Inc.
2613 12th Street SE
Salem, OR 97302

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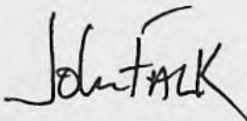
SPECIFICATIONS

- ▶ Construction of the outlet works (pg. 3) specifies 2500 psi minimum concrete strength for the concrete cradle, which is acceptable, although a lower strength mix or controlled density fill would also meet our approval. However, it is not clear which concrete mix (strength) is desired for construction of the reinforced cut-off collars. A 2500 psi mix is implied, but Pg. 7 specifies a design strength of 3000 psi @ 28 days, placed with a slump less than 4", presumably for *all formed & steel-reinforced concrete structures*.
- ▶ Minor editing as shown on pages 1, 3, 4, 9.

After the revisions have been made to the design, please submit two sets of specifications, one set of reproducible drawings and one set of blueline prints for final approval. I will notify the water rights section of our approval once we have received the revised version. One set each of the signed blueline prints and specifications will be returned to the applicant when and if a permit is issued for this project. All other materials will remain here for benefit of public record. In the meantime, if you have any questions, please let me know.

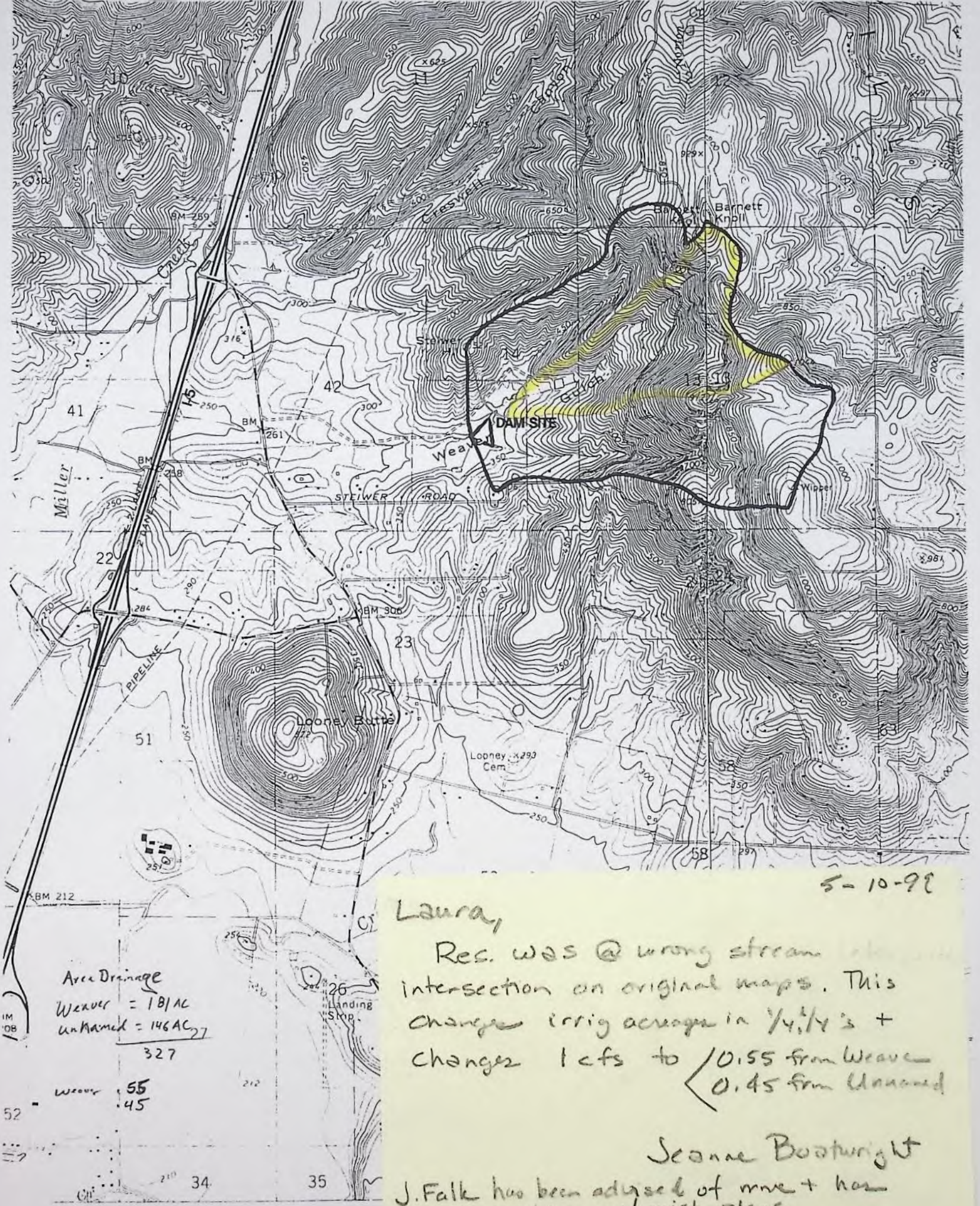
Thank you for your cooperation and patience.

Very Truly Yours,



J. A. Falk, P.E.
Safety of Dams

- c: Bill Ferber - Watermaster Dist. #16
OWRD Water Rights
Glenn & Mary Westbrook - Applicant



Area Drainage
 Weaver = 181 AC
 Unnamed = 146 AC
 327

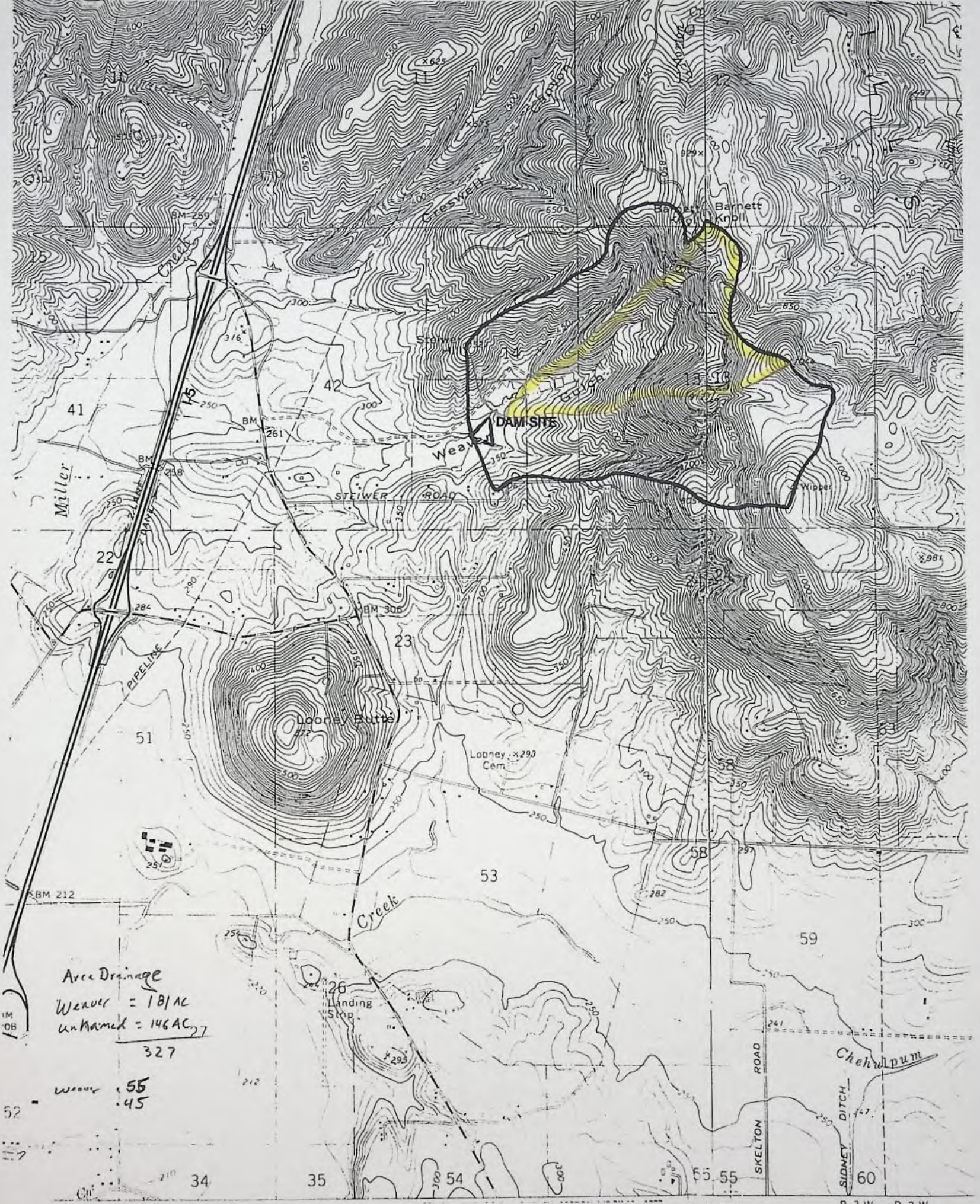
Weaver 55
 45

5-10-98

Laura,
 Rec. was @ wrong stream
 intersection on original maps. This
 changes irrig acreage in 1/4, 1/4's +
 changes lefts to < 0.55 from Weaver
 < 0.45 from Unnamed

Seanne Boatwright

J. Falk has been advised of mve + has
 no problem w/ exist. plans



Area Drainage
 Weaver = 181 AC
 unnamed = 146 AC
 327

Weaver 55
 45

Application No R 84036
Permit No.

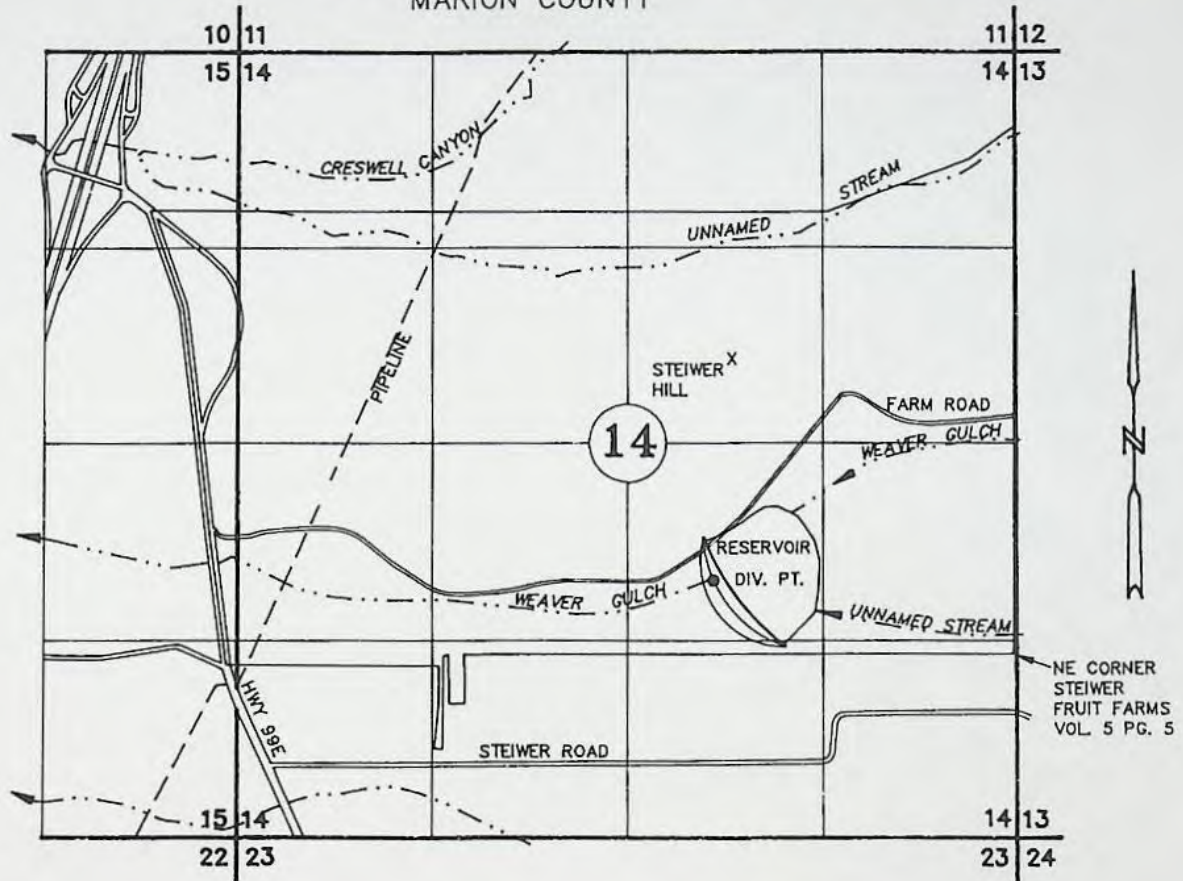
SUPERSEDED

RECEIVED

JAN 7 1999

T.9S. R.3W. W.M.
MARION COUNTY

WATER RESOURCES DEPT.
SALEM, OREGON



DIV. PT. LOCATION (DAM): NW 1/4 SE 1/4, SEC. 14;
475' N AND 2060' WEST OF NE COR. STEIWER FRUIT FARMS

APPLICATION TO CONSTRUCT A RESERVOIR

Application No. _____

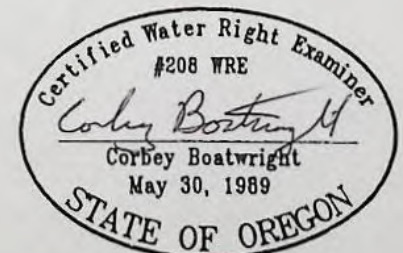
Permit No. _____

GLENN AND MARY WESTBROOK

AUG 24, 1998

SCALE 1" = 1320'

NOTE: This map is for the purpose of identifying the location of water rights and has not intent to dimension or locate property ownership lines.



R-84036

S-84037

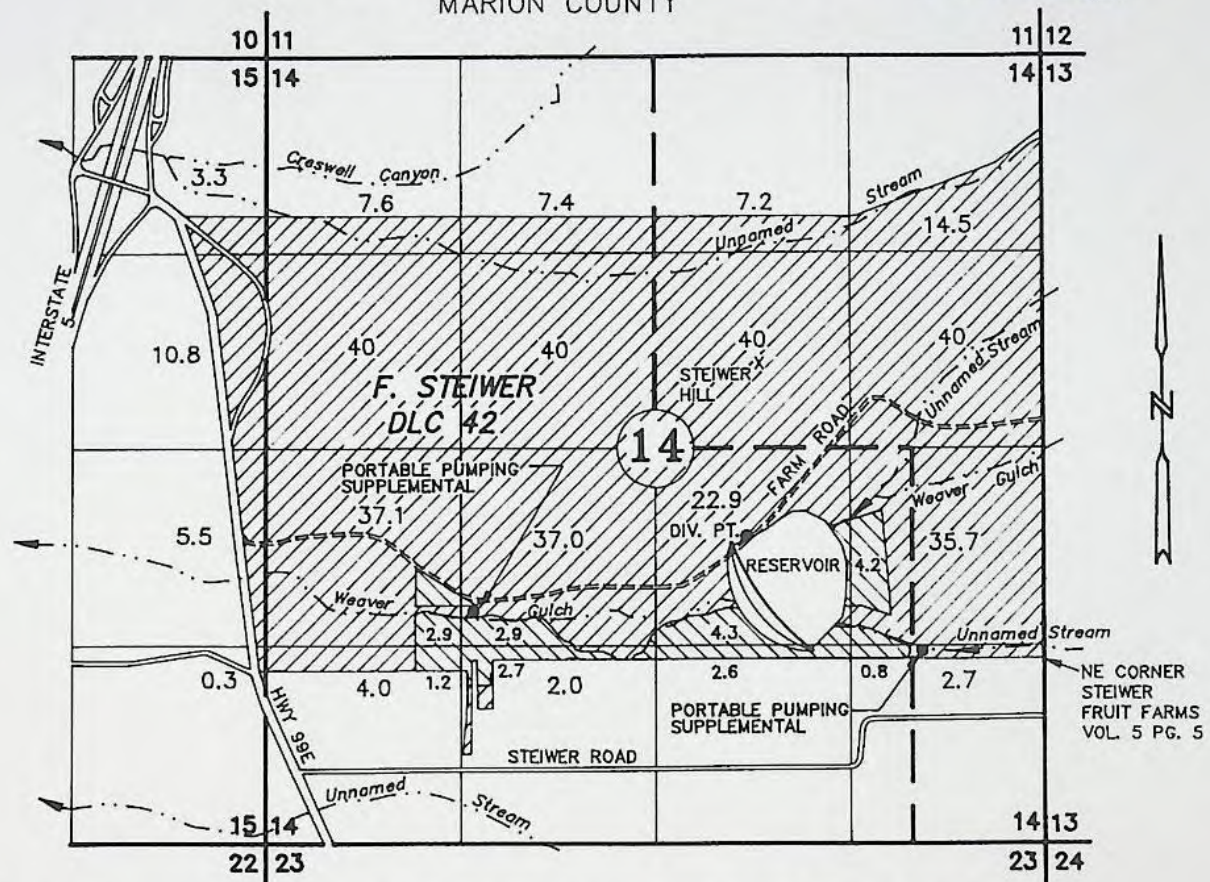
SUPERSEDED

RECEIVED

APR 09 1999

T.9S. R.3W. W.M.
MARION COUNTY

WATER RESOURCES DEPT.
SALEM, OREGON

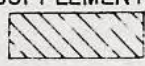


TEXT SIZE AREA
 2.9 SUPPLEMENTAL
 4.0 PRIMARY

DIV. PT. LOCATION (PUMP): NW 1/4 SE 1/4, SEC. 14;
 820' N AND 2010' WEST OF NE COR. STEIWER FRUIT FARMS

APPLICATION FOR APPROPRIATION OF SURFACE WATER

SUPPLEMENTAL



R-22915
 22916
 R-84036
 S-84037

R-916
 18066

Application No. _____

Permit No. _____

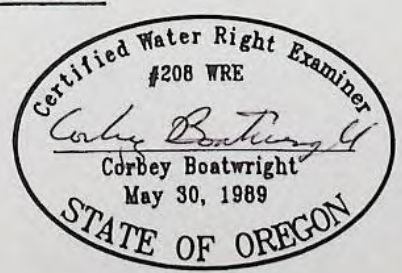
GLENN AND MARY WESTBROOK

JANUARY 08, 1999

SCALE 1" = 1320'

REVISED: APRIL 08, 1999

NOTE: This map is for the purpose of identifying the location of water rights and has no intent to dimension or locate property ownership lines.



WATER RIGHT FEE CALCULATION
Groundwater, Surface Water, Standard Reservoir

Fee is figured adding \$250 Base Fee *plus* the following calculations:

Groundwater or Surface Water Live Flow Calculation	Storage or to use Stored Water Rate Calculation
1 st CFS* or fraction \$ 150	121 \$10 for 1 st AF or fraction up to 10AF
<i>Plus</i>	<u>10</u> X \$10 <u>100</u>
Additional CFS or fraction	<i>Plus</i>
_____ X \$75 \$ _____	\$1 each add'l AF (11AF-1000AF)
	<u>111</u> X \$1 <u>111</u>
	<i>Plus</i>
	.25 each add'l AF (1001 +)
	_____ X .25 _____
Total \$ _____	Total <u>\$211</u>
LIVE FLOW EXAMINATION FEE TOTAL	STORED EXAMINATION FEE TOTAL
\$250 + \$ _____ = \$ _____	\$250 + \$ <u>211</u> = \$ <u>461</u>

If an application is to appropriate both stored water *and* live flow, use the following calculation:

Base Fee \$250 (Note: use only one base fee)
plus
 Live flow calculation (above) _____
Plus
 Storage calculation(above) _____
 Total Exam Fee _____

Application No. R 84036
Permit No.

Recording fees for all applications (due at permit):\$175

ALL EXAMINATION FEES MUST BE PAID BEFORE AN APPLICATION CAN BE ACCEPTED FOR FILING. RECORDING FEES DO NOT HAVE TO BE PAID AT APPLICATION FILING.

*1 CFS equals 448.83 gallons per minute.

RECEIVED

JAN 7 1999

WATER RESOURCES DEPT.
SALEM, OREGON

Oregon

WATER
RESOURCES
DEPARTMENT

NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdictions where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you.

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for a water right. The Water Resources Department (WRD) requires its applicants to obtain land use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan.

Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land use form and return it to WRD. If no land use information is received from you within that 30 day period, WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan.

Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact WRD's Land Use Coordinator at (503) 378-3739, ext. 241.



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



Oregon Water Resources Department Land Use Information Form

RECEIVED

JAN 7 1999

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 file out this form if water is to be diverted, conveyed, or used only on federal lands.*

WATER RESOURCES DEPT.
SALEM, OREGON

To Be Completed By Applicant

The following section includes information about proposed water use. This section must be completed by the individual or group that is filing an application for a water right with the Water Resources Department.

A. Applicant

Name: Glen and Mary Westbrook

Address: 3022 Umatilla Place

City: Albany State: OR Zip: 97321 Day Phone: (541) 928-8293

B. Land and Location

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (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 I.D.	Plan Designation (e.g. Rural Residential/RR-5)	Water to be: (check all that apply)		
93w14-200	EFU / Primary Ag.	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used
		<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used
		<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used

List counties and cities where water is proposed to be diverted, conveyed, or used. Marion County

C. Description of Water Use

Indicate what the water will be used for. Include the beneficial use (found in the instruction booklet for your water right application) and use the space below to describe the key characteristics of the project.

Beneficial Use(s): Irrigation and Recreation

Briefly describe: Irrigate ^{378± gms 1-7-99} 215± Ac and 16 Ac/Ft for general recreational uses.

Application No. R 84036

Permit No.

D. Source

Indicate the source for the proposed water use: Westbrook Reservoir
Weaver Gulch
 Reservoir/Pond Ground Water Surface Water Unnamed Stream
(source)

E. Quantity

Indicate the estimated quantity of water the use will require:

1 cfs and 121 Ac/Ft CFS GPM Acre-Feet

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless your project will be located entirely within the city limits. In this case, only the city planning agency must complete this form. Please request additional forms as needed or feel free to copy.

A. Allowed Use

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); 136.020(A). Go to section B "Approval" below
- Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.

Type of Land Use Approval Needed (e.g. plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Check the item that applies: Land Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued

Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus accompanying findings is sufficient.)

B. Approval

Please provide printed name and written signature.

Name: NORMAN BICKEL Date: 12/20/98

Title: Associate Planner Phone: (503) 588-5038

Signature: *Norman Bickel*

C. Additional Comments

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.

Note: If this form cannot be completed while the applicant waits, sign and detach the receipt stub as instructed below. You will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD will presume the land use associated with the proposed water right is compatible with local comprehensive plans. (See attached letter.)

WARRANTY DEED
GIVEN ALIEN BY TIRSA PRINCE, THE ROBERT L. RICHSCHEIDER AND LORENE RICHSCHEIDER

RECORDED PAGE 369

In consideration of FIVE THOUSAND SEVENTY FIVE THOUSAND & NO/100 Dollars paid by the Grantee herein, the Grantee hereby grant, bargain, sell, convey and warrant unto the Grantee the following described real property, situated in the County of WAHONIA State of Oregon, to wit:

RECEIVED

JAN 7 1999

SEE EXHIBIT A WHICH IS ATTACHED HERETO AND MADE A PART HEREOF...

WATER RESOURCES DEPARTMENT SALEM, OREGON

"THIS DEED IS BEING RERECORDED TO CORRECT THE DESCRIPTION"

FAT. 95933

Parcel # 62660-000

To Have and to Hold the granted premises unto the said Grantee, their Heirs and Assigns forever. And the Grantee do covenant that they are lawfully seized in fee simple of the above granted premises free from all encumbrances, SEE EXHIBIT A WHICH IS ATTACHED HERETO AND MADE A PART HEREOF...

JUL 01 1998

and that they, will and shall, heirs, executors and administrators, shall warrant and forever defend the granted premises, against the lawful claims and demands of all persons, except as above stated.

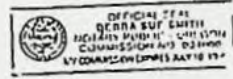
Witness OUR hand and seal this 7th day of October, 1997. ROBERT L. RICHSCHEIDER (SEAL) LORENE RICHSCHEIDER (SEAL)

STATE OF OREGON County of WAHONIA

BE IT REMEMBERED, That on this 7th day of October, 1997, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Robert L. Richscheider and Lorene Richscheider...

known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily. IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public for Oregon My Commission expires 11/18/98



UNTIL A CHANGE IS RECEIVED, ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING ADDRESS:

GLENN D. WESTBROOK 3022 UNATILLA PLACE SW ALBANY, OR 97321 Return to: GLENN D. WESTBROOK 3022 UNATILLA PLACE SW ALBANY, OR 97321

STATE OF OREGON County of WAHONIA I certify that the within instrument was received for record on at o'clock and was recorded in Book Page of Deeds of said county. Notary of Conveyances Deputy

A.T.S.

62-160-000 0931014-00200 R36332 RUN IN

A.T.S.

1501 0369

Application No. R 84036 Permit No.

Tract 11: Beginning at an iron pipe on the East line of Section 14, Township 9 South, Range 3 West of the Willamette Meridian in Marion County, Oregon, 302.26 feet South from the Northeast corner of said Section 14; thence South along the East line thereof, 3578.80 feet to the Northeast corner of Lot 1, STEWIER FRUIT FARMS as recorded in Volume 5, Page 5, Marion County Town Plat; thence South 89° 45' West along the North boundary thereof 3878.16 feet to the Northwest corner of Lot 12 in STEWIER FRUIT FARMS; thence South along the West line of said Lot 12, 660.0 feet to an iron pipe at the Southwest corner thereof; thence South 89° 45' West 93.30 feet to the Southeast corner of Tract 1; thence North 05° 29' East 365.16 feet to an iron rod in the Northeast corner of Tract 1; thence North 0° 03' East 217.13 feet to a point; thence North 89° 57' West 1440.89 feet parallel to the center line of County Road 211, to a point on the center line of 99E; thence North 7° 25' West 836.21 feet; thence North 6° 40' West 53.11 feet to a point in said 99E from which an iron rod bears North 04° 56' East 2.80 feet; thence North 6° 40' West 721.38 feet; thence North 7° 10' West 816.05 feet to an iron rod set in the center of the old county road; thence North 19° 20' West along the center of the old county road, 693.80 feet to an iron pipe set at the Southwest corner of that certain tract of land described in a deed recorded on Page 87 of Book 304 of Deed Records of Marion County, Oregon; said iron pipe being at a point which is South 19° 33' East, 1244.10 feet from an iron bolt set on the North line of Section 15, Township 9 South, Range 3 West of the Willamette Meridian, Marion County, Oregon; thence South 89° 46' East along the South line of said property, 3301.60 feet to an iron pipe; thence South 89° 46' East 1270.25 feet to an iron pipe; thence North 70° 24' East 1051.40 feet to an iron pipe; thence North 54° 42' East 398.43 feet to the point of beginning.

SAVE AND EXCEPT that portion lying within Highway 99E.

ALSO SAVE AND EXCEPT those portions conveyed to the State of Oregon, by and through its State Highway Commission by deeds recorded March 11, 1955, in Volume 473, Page 275, and recorded September 5, 1956, in Volume 491, Page 797, Deed Records for Marion County, Oregon.

ALSO SAVE AND EXCEPT an undivided 2% of all oil, gas and minerals as reserved in deed recorded March 1, 1948, in Book 304, Page 280, Deed Records for Marion County, Oregon. **

SUBJECT TO:

- 1) 1997-98 taxes, a lien not yet payable;
- 2) The assessment roll and the tax roll disclose that the within described premises were specially assessed as farm land. If the land has become or becomes disqualified for such special assessment under the statute, an additional tax may be levied for ten years, or a lesser number of years in which the land was subject to the special land use assessment;
- 3) Rights of the public in and to that portion of the herein described tract lying within the boundaries of roads and townships;
- 4) Rights of the public and governmental bodies in and to any portion of the herein described property lying below the high water mark of the Miller Creek or of an unnamed creek, and in and to said water;
- 5) Easement for ingress and egress above and below the surface of the herein described premises as granted by reservation of mineral rights in deed dated November 29, 1947, recorded March 1, 1948 in Book 304, Page 280, Marion County, Oregon;
- 6) Limited access in deed to the State of Oregon by and through its State Highway Commission, recorded September 5, 1956 in Book 491, Page 797, Marion County, Oregon;
- 7) Easement, including the terms and provisions thereof, conveyed to Southern Pacific Pipe Lines, Inc. by instrument recorded May 10, 1962 in Book 558, Page 210, Marion County, Oregon;
- 8) Oil and Gas Lease recorded June 22, 1976 in Book 88, Page 887, Marion County, Oregon;
- 9) Fence Encroachment, as disclosed by unrecorded document on file;
- 10) Completed Survey, reserving the right to add additional exceptions upon examination of said survey.

Tract 11: The West 142.50 feet of the North 299.00 feet of Lot 12, Stewier Fruit Farms, Marion County, Oregon.

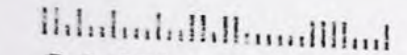
62460.000 073W14-040200

1501
0369

Application No. R 84036
Permit No

TL200

JUL 01 1998



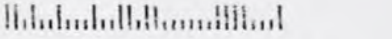
R-84036
Krautmann Family Nursery, LLC
4194 71st Ave SE
Salem OR 97301



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**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT #

27026

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

INVOICE # _____

RECEIVED FROM:

Glen D. Westbrook

APPLICATION

R-84036

BY: _____

PERMIT

TRANSFER

CASH:

CHECK: #

OTHER: (IDENTIFY)

96-656

TOTAL REC'D

\$ *1121.00*

0417 WRD MISC CASH ACCT

ADJUDICATIONS

\$

PUBLICATIONS / MAPS

\$

OTHER: (IDENTIFY)

\$

OTHER: (IDENTIFY)

\$

**RECEIVED
OVER THE COUNTER**

REDUCTION OF EXPENSE

CASH ACCT.

\$

PCA AND OBJECT CLASS

VOUCHER #

0427 WRD OPERATING ACCT

MISCELLANEOUS

0407

COPY & TAPE FEES

\$

0410

RESEARCH FEES

\$

0408

MISC REVENUE: (IDENTIFY)

\$

(New)

TC165

DEPOSIT LIAB. (IDENTIFY)

\$

(Existing)

TC168

WATER RIGHTS:

0201

SURFACE WATER

EXAM FEE

\$ *546.00*

0202

RECORD FEE

\$

0203

GROUND WATER

\$

0204

\$

0205

TRANSFER

\$

0206

\$

WELL CONSTRUCTION

EXAM FEE

LICENSE FEE

0218

WELL DRILL CONSTRUCTOR

\$

0219

\$

LANDOWNER'S PERMIT

0220

\$

OTHER (IDENTIFY)

*PCA # 66111
Ref # 270257*

0437 WELL CONST. START FEE

0211

WELL CONST START FEE

\$

CARD #

0210

MONITORING WELLS

\$

CARD #

OTHER (IDENTIFY)

0539 LOTTERY PROCEEDS

1302

LOTTERY PROCEEDS

\$

0467 HYDRO ACTIVITY

LIC NUMBER

0233

POWER LICENSE FEE (FWWRD)

\$

0231

HYDRO LICENSE FEE (FWWRD)

\$

HRDRO APPLICATION

\$

RECEIPT #

27026

DATED:

1-7-99

BY:

Roger Wright

WR

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # 70454

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

INVOICE # _____

RECEIVED FROM: <u>Heritage Seedlings, Inc</u>	APPLICATION <u>Below</u>
BY: _____	PERMIT _____
	TRANSFER _____
CASH: <input type="checkbox"/> CHECK:# <u>14904</u> OTHER: (IDENTIFY) <input type="checkbox"/>	TOTAL REC'D \$ <u>25.00</u>

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	<u>R 84036 - \$12.50</u>	
0407 COPY & TAPE FEES	<u>R 84037 - \$12.50</u>	\$
0410 RESEARCH FEES		\$
0408 MISC REVENUE: (IDENTIFY) <u>Assign</u>		\$ <u>25.00</u>
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 (FWWRD)		\$
0231 HYDRO LICENSE FEE (FWWRD)		\$
HYDRO APPLICATION		\$

TREASURY OTHER / RDX

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

RECEIPT: 70454

DATED: 9/29/04 BY: L. Albin

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # **31542**

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

INVOICE # _____

RECEIVED FROM: Glenn D. Westbrook
 BY: _____

APPLICATION	R-54036
PERMIT	
TRANSFER	

CASH: CHECK: # 96-656 OTHER: (IDENTIFY)

TOTAL REC'D \$ 285.00

0417 WRD MISC CASH ACCT

ADJUDICATIONS	\$
PUBLICATIONS / MAPS	\$
OTHER: (IDENTIFY) RECEIVED	\$
OTHER: (IDENTIFY) OVER THE COUNTER	\$

REDUCTION OF EXPENSE

CASH ACCT. \$

PCA AND OBJECT CLASS VOUCHER #

0427 WRD OPERATING ACCT

0407 MISCELLANEOUS	\$
0410 COPY & TAPE FEES	\$
0408 RESEARCH FEES	\$
0408 MISC REVENUE: (IDENTIFY)	\$
(New) TC162 DEPOSIT LIAB. (IDENTIFY)	\$

*PAID 11/6/11
 Ref 431543*

WATER RIGHTS:	EXAM FEE		RECORD FEE
0201 SURFACE WATER	\$	0202	\$ <u>90.00</u>
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$	0206	\$
WELL CONSTRUCTION	EXAM FEE		LICENSE FEE
0218 WELL DRILL CONSTRUCTOR	\$	0219	\$
LANDOWNER'S PERMIT		0220	\$

OTHER (IDENTIFY) _____

0437 WELL CONST. START FEE

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

0539 LOTTERY PROCEEDS

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

0467 HYDRO ACTIVITY

0233 POWER LICENSE FEE (FWWRD)	LIC NUMBER	\$
0231 HYDRO LICENSE FEE (FWWRD)		\$
HRDRO APPLICATION		\$

RECEIPT # **31542**

DATED: 7-27-99 BY: Roger Whipple

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **103336**

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

INVOICE # _____

RECEIVED FROM: <u>Pacific Hydro-Geology Inc.</u>	APPLICATION <u>R-84036</u>
BY: _____	PERMIT _____
	TRANSFER _____

CASH: CHECK:# 3853 OTHER: (IDENTIFY)

TOTAL REC'D \$ 150.00

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

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

**RECEIVED
OVER THE COUNTER**

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 \$

0200 OTHER (IDENTIFY) COBU \$ 150.00

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: **103336** DATED: 7.7.11 BY: L.A.G.