



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

Application for a Permit to Use Surface Water

Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "n/a." Please read and refer to the instructions when completing your application. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

1. APPLICANT INFORMATION

A. Individuals

Applicant: Bill Gibson, Mining and Process Engineer
First Last

Mailing address: _____

City State Zip

Phone: _____
Home Work Other

*Fax: _____ *E-Mail address: _____

B. Organizations

(Corporations, associations, firms, partnerships, joint stock companies, cooperatives, public and municipal corporations)

Name of organization: Rogue Aggregates, Inc

Name and title of person applying: Bill Gibson, Mining and Process Engineer

Mailing address of organization: PO BOX 4430

Medford OR 97501
City State Zip

Phone: 541-664-4155
Day Evening

*Fax: _____ *E-Mail address: bill.gibson@rogueagg.com

* Optional information

For Department Use		
App. No. _____	Permit No. _____	Date _____

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2. SOURCE AND PROPERTY OWNERSHIP

A. The Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: Lost Creek Reservoir Tributary to: Rogue River
Source 2: _____ Tributary to: _____
Source 3: _____ Tributary to: _____
Source 4: _____ Tributary to: _____

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

B. Applications to Use Stored Water

Complete this section if any source listed in item 2A above is stored water.

Do you, or will you, own the reservoir(s) described in item 2A above?

- Yes.
- No. (Please enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which you should have already mailed or delivered to the operator.)

If *all* sources listed in item 2A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

- By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:
- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
 - A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

C. Property Ownership

Do you own all the land where you propose to divert, transport, and use water?

Yes (Please check appropriate box below then skip to section 3 'Water Use')

There are no encumbrances

This land is encumbered by easements, rights of way, roads or other encumbrances (please provide a copy of the recorded deed(s))

No (Please check the appropriate box below.)

I have a recorded easement or written authorization permitting access.

I do not currently have written authorization or easement permitting access.

Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040).

You must provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.

List the names and mailing addresses of all affected landowners.

BAB, LLC, 11 Frontage, Gold Hill, OR 97525

3. WATER USE

Please read the instruction booklet for more details on "type of use" definitions, how to express how much water you need and how to identify the water source you propose to use. You must fill out a supplemental form for some uses as they require specific information for that type of use.

A. Type(s) of Use(s)

See list of beneficial uses provided in the instructions.

- If your proposed use is **domestic**, indicate the number of households to be supplied with water: _____
- If your proposed use is **irrigation**, please attach **Form I**
- If your proposed use is **mining**, attach **Form R**
- If your proposed use is **municipal or quasi-municipal**, attach **Form M**
- If your proposed use is **commercial/industrial**, attach **Form Q**

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B. Amount of Water

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):

(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

Source	Type of use	Amount
<i>Last Cr. Res</i>	Mining	<i>5</i> <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af
		<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
		<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
		<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

C. Period of Use

Indicate the time of year you propose to use the water: Year around
(For seasonal uses like irrigation give dates when water use would begin and end, e.g. March 1–October 31.)

D. Acreage

If you will be applying water to land, indicate the total number of acres where water will be applied or used: NA
(This number should be consistent with your application map.)

4. WATER MANAGEMENT

A. Diversion

What method will you use to divert water from the source?

- Pump (give horsepower and pump type): 5 Hp centrifugal
- Head-gate (give dimensions): _____
- Other means (describe): _____

B. Monitoring

How will you monitor your diversion to be sure you are within the limits of your water right (allowed rate and duty) and you are not wasting water?

- Weir Meter Periodic Sampling
- Other means (describe): _____

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C. Transport

How will you transport water to your place of use?

Ditch or canal (give average width and depth):

Width _____ Depth _____

Is the ditch or canal to be lined? Yes No

Pipe (give diameter and total length):

Diameter 3 inch Length 2000 ft

Other (describe) _____

D. Application/Distribution Method

What equipment will you use to apply water to your place of use? Storage tank, pump and hose to nozzle for dust control. Also water truck for dust control on roads.

Irrigation or land application method (check all that apply):

- Flood
- High-pressure sprinkler
- Low pressure sprinkler
- Drip
- Water cannons
- Center pivot system
- Hand lines
- Wheel lines
- Siphon tubes or gated pipe with furrows
- Other, describe _____

Distribution method

- Direct pipe from source
- In-line storage (tank or pond)
- Open canal

E. Conservation

What methods will you use to conserve water? Why did you choose this distribution or application method? Have you considered other methods to transport, apply, distribute or use water? For example, if you are using sprinkler irrigation rather than drip irrigation, explain. If you need additional space, attach a separate sheet.

Water will only be used when dust control is necessary.

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5. RESOURCE PROTECTION

A. Protection Practices

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

Diversion will be screened to prevent uptake of fish and other aquatic life.

Describe planned actions: A SureFlow type rotating self cleaning screen meeting ODFW specification will be used.

Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas. Describe planned actions: No excavation necessary, there is an existing pump site.

Operating equipment in a water body will be managed and timed to prevent damage to aquatic life. Describe: Equipment operation in the water will not be necessary.

Water quality will be protected by preventing erosion and run-off of waste or chemical products. Describe: All requirements Division of State Lands will be implemented.

Other: _____

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6. PROJECT SCHEDULE

Indicate the anticipated dates that the following construction tasks should begin. If construction has already begun, or is completed, please indicate that date.

Proposed date construction will begin: July 2010

Proposed date construction will be completed: September 2010

Proposed date beneficial water use will begin: October 2012

7. REMARKS

If you would like to clarify any information you have provided in the application, please do so here and reference the specific application question you are addressing.

Please be advised that the system (pump station and pipeline) is existing under certificate 2442. This application intends to secure water right to cover land in addition to land covered by certificate 2442.

8. MAP REQUIREMENTS

The Department cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section, and quarter/quarter section of the proposed points of diversion and place of use. The map must provide tax lot numbers. See the map guidelines sheet for detailed map specifications.

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9. SIGNATURE

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be canceled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit to me, I may have to stop using water to allow senior water right holders to get water they are entitled to, and

I swear that all information provided in this application is true and correct to the best of my knowledge:


Signature of Applicant (If more than one applicant, all must sign.)

7/31/08
Date

Before you submit your application be sure you have:

- ✓ Answered each question completely.
- ✓ Attached a legible map which includes township, range, section, quarter/quarter and tax lot number.
- ✓ Included a Land Use Information Form or receipt stub signed by a local official.
- Included the legal description of all the property involved with this application. You may supply a copy of the deed, land sales contract, or title insurance policy, to meet this requirement.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount. The Department's fee schedule can be found at www.wrd.state.or.us or call (503) 986-0900.

WRD on the web:
www.wrd.state.or.us

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Oregon Water Resources Department

FORM R
FOR WATER USED FOR MINING PURPOSES

1. What type of mining operation is planned?

- Aggregate, Industrial Minerals, Placer, Metal (flotation processing), Metal (chemical processing - heap leach), Other (Specify)

2. What are the proposed uses of water?

- Gravel washing, Dewatering, Make-up for milling operation, Heap leach, Dust control, Domestic, Other (Specify)

3. Does the mine operation require dewatering?

- No (Skip to question no. 4), Yes

At what rate will the water be produced? gpm cfs
How will the water be discharged? Recirculated Off-site

4. Will ponds or dams be constructed?

- No (Skip to question no. 5), Yes

Approximate pond depth: Depth to ground water: Amount stored:

5. Will a pond (or ponds) be left after reclamation has been completed?

- No (Skip to question no. 6), Yes List information for each pond.

Source: Use: Size: Depth:

Use the reverse side of this form for additional ponds.

6. Will monitoring or observation wells be constructed on site?

- No (Skip to question no. 7), Yes How many?

Label these well locations on your permit application map.

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7. Attach a copy of the map submitted to the Department of Geology and Mineral Industries (DOGAMI) showing locations of all intermittent water courses, perennial streams, springs, wetlands, and wells.

WATER STORAGE AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA

AND

ROGUE AGGREGATES, INC., MEDFORD, OREGON

FOR

ORIGINALLY AUTHORIZED WATER STORAGE SPACE IN
LOST CREEK LAKE PROJECT, OREGON

THIS AGREEMENT, entered into this 7th day of Sept, 2007, by and between THE UNITED STATES OF AMERICA (hereinafter called the "Government") represented by the District Engineer executing this agreement, and Rogue Aggregates, Inc., an Oregon corporation (hereinafter called the "User");

WITNESSETH THAT:

WHEREAS, the Flood Control Act of 1962, (Public Law 87-874), authorized the construction, operation, and maintenance of the Lost Creek Project on the Rogue River, Oregon (hereinafter called the "Project"); and

WHEREAS, the User desires to enter into an agreement with the Government for the use of storage included in the Project for municipal and industrial water supply, and for payment of the cost thereof in accordance with the provisions of the Water Supply Act of 1958, as amended (43 U.S.C. 390b-f); and

WHEREAS, the User as shown in Exhibit A attached to and made a part of this agreement, is empowered to enter into an agreement with the Government and is vested with all necessary powers of accomplishment of the purposes of this agreement, including those required by Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5d) (as amended).

NOW, THEREFORE, the Government and the User agree as follows:

ARTICLE 1 - Water Storage Space.

a. Project Construction. The Government, subject to the directions of Federal law and any limitations imposed thereby, has designed and constructed the Project so as to include therein space for the storage of water by the User.

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b. Rights of User.

(1). The User shall have the right to utilize an undivided 0.0016 percent (estimated to contain 5 acre-feet after adjustment for sediment deposits) of the usable conservation storage space in the Project elevations 1,872 feet and 1,751 feet above National Geodetic Vertical Datum, which is estimated to contain 308,250 acre-feet after adjustment for sediment deposits. This storage space is to be used to impound water for present demand or need for municipal and industrial water supply.

(2). The User shall have the right to withdraw water from the lake, or to request releases to be made by the Government through the outlet works of the Project, subject to the provisions of Article 1c and to the extent the aforesaid storage space will provide; and shall have the right to construct all such works, plants, pipelines, and appurtenances as may be necessary and convenient for the purpose of diversion or withdrawals, subject to the approval of the District Engineer as to design and location. The grant of an easement for right-of-way, across, in and upon land of the Government at the Project shall be by a separate instrument in a form satisfactory to the Secretary of the Army, in accordance with ER 405-1-12, under the authority of and in accordance with the provisions of 10 U.S.C. 2669 and such other authorities as may be necessary. Subject to the conditions of such easement, the User shall have the right to use so much of the Project land as may reasonably be required in the exercise of the rights and privileges granted under this agreement.

c. Rights Reserved. The Government reserves the right to control and use all storage in the Project in accordance with authorized Project purposes. The Government further reserves the right to take such measures as may be necessary in the operation of the Project to preserve life and/or property, including the right not to make downstream releases during such periods of time as are deemed necessary, in its sole discretion, to inspect, maintain, or repair the Project.

d. Quality or Availability of Water. The User recognizes that this agreement provides storage space for raw water only. The Government makes no representations with respect to the quality or availability of water and assumes no responsibility therefor, or for the treatment of the water.

e. Sedimentation Surveys.

(1). Sedimentation surveys will be made by the District Engineer during the term of this agreement at intervals not to exceed fifteen (15) years unless otherwise agreed to in writing by both parties. When, in the opinion of the District Engineer, the findings of such survey indicate any Project purpose will be affected by unanticipated sedimentation distribution, there shall be an equitable redistribution of the sediment reserve storage space among the purposes served by the Project including municipal and industrial water supply. The total available remaining storage space in the Project will then be divided among the various Project features in the same ratio as was initially utilized. Adjusted pool elevations will be rounded to the nearest one-half foot. Such findings and the storage space allocated to municipal and industrial water supply shall be defined and described as an exhibit, which will be made a part of this agreement and the water control manual

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will be modified accordingly.

(2). The Government assumes no responsibility for deviations from estimated rates of sedimentation, or the distribution thereof. Such deviations may cause unequal distribution of sediment reserve storage greater than estimated, and/or encroachment on the total storage at the Project.

ARTICLE 2 - Regulation of and Right to Use of Water. The regulation of the use of water withdrawn or released from the aforesaid storage space shall be the sole responsibility of the User. The User has the full responsibility to acquire in accordance with State laws and regulations, and, if necessary, to establish or defend, any and all water rights needed for utilization of the storage provided under this agreement. The Government shall not be responsible for diversions by others, nor will it become a party to any controversies involving the use of the storage space by the User except as such controversies may affect the operations of the Project by the Government.

ARTICLE 3 - Operation and Maintenance. The Government shall operate and maintain the Project and the User shall pay to the Government a share of the costs of such operation and maintenance as provided in Article 5c. The User shall be responsible for operation and maintenance of all installations and facilities, which it may construct for the diversion or withdrawal of water, and shall bear all costs of construction, operation and maintenance of such installations and facilities.

ARTICLE 4 - Measurement of Withdrawals and Releases. The User agrees to furnish and install, without cost to the Government, suitable meters or measuring devices satisfactory to the District Engineer for the measurement of water, which is withdrawn from the Project by any means other than through the Project outlet works. The User shall furnish to the Government monthly statements of all such withdrawals. Prior to the construction of any facilities for withdrawal of water from the Project, the User will obtain the District Engineer's approval of the design, location and installation of the facilities including the meters or measuring devices. Such devices shall be available for inspection by Government representatives at all reasonable times. Releases from the water supply storage space through the Project outlet works shall be made in accordance with written schedules furnished by the User and approved by the District Engineer and shall be subject to Article 1c. The measure of all such releases shall be by means of a rating curve of the outlet works, or by such other suitable means as may be agreed upon prior to use of the water supply storage space.

ARTICLE 5 - Payments. In consideration of the right to utilize the aforesaid storage space in the Project for municipal and industrial water supply purposes, the User shall pay the following sums to the Government:

a. Project First Cost

(1). The User shall repay to the Government in a lump sum payment the amounts stated below which, as shown in Exhibit B-III attached to and made a part of this agreement, constitute the entire actual amount of the Project first cost (which includes the construction cost of \$3,030, interest during construction of \$341, interest accrued following the end of the 10-year interest free period 25

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June 1992 of \$2,078 and present value of estimated joint-use cost of operation and maintenance for a 30-year period of \$1,239) allocated to the water storage right acquired by the User under this agreement. This total Project first cost assigned to the User is \$6,688. The interest rate to be used for purposes of computing interest during construction and accrued interest will be the coupon rate as determined by the Secretary of the Treasury on the basis set forth in the Water Supply Act of 1958, Title III of PL 85-500. For the Project, construction of which was initiated in FY1968 this interest rate is 3.253 percent.

The company shall repay:

0.05 percent of the total Project joint-use construction costs allocated to water supply	\$3,030
Interest during construction	\$341
Interest accrued from the end of the 10-year interest free period, 25 Jun 92 to the date of agreement approval, estimated to be 15 Feb 06	<u>\$2,078</u>
Present value of estimated joint-use costs of operation and maintenance (\$77) increasing at a growth rate of 2.5% annually for a 30-year period discounted at an interest rate of 7.652%.	<u>\$1,239</u>
Total amount of Project investment costs allocated to the Company	\$6,688

(2). The Project first cost shall be due and payable within 30 days after the User is notified by the District Engineer of approval of this agreement by the Secretary of the Army or his duly authorized representative.

b. Repair, Rehabilitation, and Replacement (RR&R) Costs. The User will be required to pay 0.0036 percent of the cost of joint-use RR&R of Project features. Payment of these costs shall be made either incrementally during construction or in lump sum (including interest during construction) upon completion of construction.

c. Annual Operation and Maintenance (O&M) Expense. The User shall, after expiration of 30 years from the effective date of this agreement, resume and continue to pay 0.0030 percent of the annual experienced joint-use O&M expense of the Project. Future payments will be due and payable in advance on the anniversary date of the effective date of this agreement and shall be based on O&M expense for the Project in the Government fiscal year most recently ended. The amount of each annual payment will be the actual experienced O&M expense (allocated joint-use) for the preceding fiscal year or an estimate thereof when actual expense information is not available.

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d. Prepayment. The User shall have the right at any time to prepay the indebtedness under this Article, subject to redetermination of costs as provided for in Article 6, in whole or in part, with accrued interest thereon to the date of such prepayment.

e. Delinquent Payments. If the User shall fail to make any of the aforesaid payments when due, then the overdue payments shall bear interest compounded annually until paid. The interest rate to be used for overdue payments due under the provisions of Articles 5a, 5b, 5c and 5d above shall be that determined by the Department of Treasury's Treasury Fiscal Requirements Manual (1 TFRM 6-8000, "Cash Management"). The amount charged on payments overdue for a period of less than one year shall be figured on a monthly basis. For example, if the payment is made within the first month after being overdue after a 15-day grace period from the anniversary date of the date of notification, one month's interest shall be charged. Thereafter a month's interest will be charged for any portion of each succeeding month that the payment is delinquent. This provision shall not be construed as giving the User a choice of either making payments when due or paying interest, nor shall it be construed as waiving any other rights of the Government, at law or in equity, which might result from any default by the User.

ARTICLE 6 - Adjustment to Project First Cost. The Project first cost shown in this agreement and the exhibits is based on actual final construction costs. Any further investment cost accruing to the User's water storage right shall be repaid under repair, rehabilitation and replacement costs if capitalized or under operation and maintenance expense if not capitalized.

ARTICLE 7 - Duration of Agreement. This agreement shall become effective when approved by the Secretary of the Army or his duly authorized representative and shall continue in full force and effect for the life of the Project.

ARTICLE 8 - Permanent Rights to Storage. Upon completion of payments by the User, as provided in Article 5a herein, the User shall have a permanent right, under the provisions of the Act of 16 October 1963 (Public Law 88-140, 43 U.S.C. 390e), to the use of the water supply storage space in the Project as provided in Article 1, subject to the following:

a. The User shall continue payment of annual operation and maintenance costs allocated to water supply.

b. The User shall bear the costs allocated to water supply of any necessary reconstruction, rehabilitation, or replacement of Project features, which may be required to continue satisfactory operation of the Project. The District Engineer will establish such costs and repayment arrangements shall be in writing in accordance with the terms and conditions set forth in Article 5b for reconstruction, rehabilitation, and replacement costs, and be made a part of this agreement.

c. Upon completion of payments by the User as provided in Article 5a, the District Engineer shall redetermine the storage space for municipal and industrial water supply in accordance with the provisions of Article 1c. Such redetermination of reservoir storage capacity may be further adjusted from time to time as the result of sedimentation resurveys to reflect actual rates of sedimentation and

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the exhibit revised to show the revised storage space allocated to municipal and industrial water supply.

d. The permanent rights of the User under this agreement shall be continued so long as the Government continues to operate the Project. In the event the Government no longer operates the Project, such rights may be continued subject to the execution of a separate agreement or additional supplemental agreement providing for:

(1). Continued operation by the User of such part of the facility as is necessary for utilization of the water supply storage space allocated to it;

(2). Terms which will protect the public interest; and,

(3). Effective absolvment of the Government by the User from all liability in connection with such continued operation.

ARTICLE 9 - Release of Claims. The User shall hold and save the Government, including its officers, agents and employees harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of the storage in the Project, or withdrawal or release of water from the Project, made or ordered by the User or as a result of the construction, operation, or maintenance of the water supply facilities and appurtenances thereto owned and operated by the User except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE 10 - Transfers and Assignments.

a. The User shall not transfer or assign this agreement nor any rights acquired thereunder, nor suballot said water supply storage space or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this agreement, without the approval of the Secretary of the Army, or his duly authorized representative provided that, unless contrary to the public interest, this restriction shall not be construed to apply to any water that may be obtained from the water supply storage space by the User and furnished to any third party or parties, nor any method of allocation thereof.

b. Regarding approval of assignments, references to restriction of assignments shall not apply to any transfer or assignment to the Rural Economic Community Development (RECD), formerly Farmers Home Administration, or its successor agency, or nominee, given in connection with the pledging of this water storage agreement as security for any loans or arising out of the foreclosure or liquidation of said loans. The User will notify the Corps in writing 15 days prior to applying for a RECD loan. A copy of the final loan instrument will be furnished to the Corps for their record.

ARTICLE 11 - Officials Not to Benefit. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may

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arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

ARTICLE 12 - Covenant Against Contingent Fees. The User warrants that no person or selling agency has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the User for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this agreement without liability or in its discretion to add to the price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 13 - Environmental Quality. During any construction, operation, and maintenance by User of any facilities, specific actions will be taken to control environmental pollution which could result from such activity and to comply with applicable Federal, State, and local laws and regulations concerning environmental pollution. Particular attention should be given to:

- a. Reduction of air pollution by control of burning, minimization of dust, containment of chemical vapors, and control of engine exhaust gases, and of smoke from temporary heaters;
- b. Reduction of water pollution by control of sanitary facilities, storage of fuels and other contaminants, and control of turbidity and siltation from erosion;
- c. Minimization of noise levels;
- d. On-site and off-site disposal of waste and spoil; and,
- e. Prevention of landscape defacement and damage.

ARTICLE 14 - Federal and State Laws.

a. Compliance. In acting under its rights and obligations hereunder, the User agrees to comply with all applicable Federal and State laws and regulations, including but not limited to the provisions of the Davis-Bacon Act (40 U.S.C. 276a et seq.); the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333); Title 29, Code of Federal Regulations, Part 3; and Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646).

b. Civil Rights Act. The User furnishes, as part of this agreement, an assurance (Exhibit D) that it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 241, 42 U.S.C. 2000d, et seq.) and Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations.

c. Regulatory Program. Any discharges of water or pollutants into a navigable stream or tributary thereof resulting from the User's facilities and operations undertaken under this agreement

shall be performed only in accordance with applicable Federal, State, and local laws and regulations.

d. Lobbying Activities. The User furnishes, as part of this agreement, a certification (Exhibit E and if applicable, a Disclosure of Lobbying Activities) that it will comply with Title 31 U.S.C. Section 1352 of the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions (Public Law 101-121, October 23, 1989) and Federal Acquisition Regulation 52.203-12 issued pursuant thereto.

ARTICLE 15 - Definitions.

a. Originally authorized water storage. Municipal and industrial water supply storage included in projects either operational or under construction as of 17 November 1986.

b. Project first cost. The initial cost of the Project, including land acquisition, construction, and interest during construction on the value of land, labor, and materials used for planning and construction of the Project plus the accrued interest on these costs since the end of the 10-year interest free period.

c. Interest Payments.

(1). Interest during construction. An amount of interest, which accrues on expenditures for the establishment of Project services during the period between the actual outlay and the time the Project is first made available for water storage.

(2). Accrued interest. An amount of interest compounded following the end of the 10-year interest free period until payments begin to be made. If payments are made in "lump sum" following completion of construction, "accrued interest" will be applicable.

(3). Interest on the unpaid balance. When the Project is amortized, this is the interest on the unpaid balance (see Exhibit C) When payments are made in "lump sum," there is no amortization schedule and therefore, no "interest on the unpaid balance."

d. Specific costs. The costs of Project features normally serving only one particular Project purpose.

e. Joint-use costs. The costs of features used for any two or more Project purposes.

f. Plant-in-service date. This date is the date that the Project is physically available to initiate deliberate impoundment for water supply purposes.

g. Annual operation and maintenance (O&M) expense. Annual expenses funded under the O&M, General account. These expenses include the daily Project O&M costs as well as those O&M costs, which are not capitalized.

h. Repair, rehabilitation and replacement (RR&R) Costs. Costs funded in part under the Operation and Maintenance, General, or Construction, General accounts but not associated with initial Project first cost. Such expenditures are for costly, infrequent work and are intended to ensure continued satisfactory operation of the Project. For the purposes of this agreement the term "reconstruction" used in Article 8 "Permanent Rights to Storage" shall be included in this definition of repair, rehabilitation and replacement; repayment of those costs shall be the same as described in Article 5b.

i. Fiscal Year. Refers to the Government's fiscal year. This year begins on 1 October and ends on 30 September. The September calendar year corresponds to the fiscal year.

j. Life of the Project. This is the physical life of the Project.

k. District Engineer. Refers to the District Engineer of the Portland District of the United States Army Corps of Engineers, or his/her successor or designee.

ARTICLE 16 - Approval of Agreement. This agreement shall be subject to the written approval of the Secretary of the Army or his duly authorized representative and shall not be binding until so approved.

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SALEM, OREGON**

IN WITNESS WHEREOF, the parties have executed this agreement as of the day and year first above written.

APPROVED:

THE UNITED STATES OF AMERICA

By 

THOMAS E. O'DONOVAN
Colonel, Corps of Engineers
District Engineer

DATE: 2 NOV 07
Day-Month-Year

ROGUE AGGREGATES, INC.

By 

President, Rogue Aggregates, Inc.

DATE: 07/09/07
Day-Month-Year

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SALEM, OREGON

EXHIBIT A: CERTIFICATION

I, Stuart Foster, Attorney for the Rogue Aggregates, Inc., hereby certify that the foregoing agreement executed by the President of Rogue Aggregates, Inc. is within the scope of his authority to act upon behalf of Rogue Aggregates, Inc., and that in my capacity as Attorney for the Company, I have considered the legal effect of Section 221 of the 1970 Flood Control Act (Public Law 91-611) and find that the Company is legally and financially capable of entering into the obligations contained in the foregoing agreement and that, upon acceptance, it will be legally enforceable.

Given under my hand, this 7th day of Sept 2007



STUART FOSTER
Attorney for Rogue Aggregates, Inc.

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EXHIBIT B: COST COMPUTATIONS

I - LAKE STORAGE

Feature	Elevation (ft, msl)	Usable Storage (ac-ft)	Percent of	
			Conservation Storage	Water Supply Storage
Seasonal Flood Control	1872-1812	180,000		
Seasonal Conservation	1812-1752	128,250 ¹		
Total Usable Storage	1872-1751	308,250¹	100.000	
Fishery Release		125,000	40.552	
Irrigation		35,000	11.354	
Water Supply		10,000	3.244	100.000
(City of Phoenix, 1982)		(400)	(0.130)	(4.000)
(City of Phoenix, 1991)		(600)	(0.195)	(6.000)
(City of Jacksonville, 1996)		(400)	(0.130)	(4.000)
(City of Shady Cove, 1998)		(3)	(0.00097)	(0.030)
(City of Ashland, 2002)		(1,001)	(0.3247)	(10.010)
(City of Talent, 2002)		(1,292)	(0.4191)	(12.920)
(City of Shady Cove, 2002)		(12)	(0.0039)	(0.120)
(Pvt Corp of Magma Stone Products, 2002)		(2)	(0.0006)	(0.020)
(Shady Cove Waterworks, LLC, 2006)		(100)	(0.0324)	(1.000)
(Rogue Aggregates, 2006)		(5)	(0.0016)	(0.050)
Joint Use ²		138,250 ¹	44.850	
Inactive	1751-1640	122,250 ¹		
Dead	below 1640	21,000		
Sedimentation (100 year)		13,500 ¹		
TOTAL PROJECT STORAGE		465,000		

¹ Storage remaining after 100 years of sedimentation from the date the project is operational. It is estimated that 135 acre feet of sedimentation will occur annually. Half (67.5 acre feet) in the area inactive storage space annually.

² Joint use storage to be used primarily for fish enhancement, in reservoir recreation, municipal and irrigation purposes until required for carry over storage draft in a low runoff water year to meet authorized project purposes.

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EXHIBIT B: (Continued)

II - ALLOCATION OF ACTUAL CONSTRUCTION COST

<u>Feature</u>	<u>Cost (\$)</u>	<u>Percent of Project Joint-Use Construction Cost</u>
Flood Control	\$44,407,000	52.673
Specific	(26,000)	
Joint-Use	(44,381,000)	
Recreation	\$11,420,000	1.517
Specific	(10,142,000)	
Joint-Use	(1,278,000)	
Water Supply	\$6,060,000	7.192
Specific		
Joint-Use	(6,060,000)	
Irrigation	\$7,007,000	8.316
Specific		
Joint-Use	(7,007,000)	
Power	\$37,925,000	22.158
Specific	(19,255,000)	
Joint-Use	(18,670,000)	
Fish & Wildlife	\$10,824,000	8.144
Specific	(3,962,000)	
Joint-Use	(6,862,000)	
Total	\$117,643,000	100.000
Specific	(33,385,000)	
Joint-Use	(84,258,000)	

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EXHIBIT B: (Continued)

III - PROJECT FIRST COST TO BE REPAYED BY USER FOR WATER SUPPLY STORAGE

Cost of 5acre-feet of water supply storage (0.05% x \$6,060,000)	=	\$3,030
Cost of specific facilities	=	<u>\$0</u>
Subtotal		\$3,030
Interest during construction ¹	=	<u>\$341</u>
Subtotal		\$3,371
Interest accrued from the end of the 10-year interest free period, 25 Jun 1992 to date of agreement approval, estimated at 20 Sep 2007		<u>\$2,078</u>
Present value of estimated joint-use costs of operation and maintenance (\$77) increasing at a growth rate of 2.4% annually for a 30-year period discounted at an interest rate of 7.892%.		<u>\$1,239</u>
Total amount of Project investment costs allocated to Rogue Aggregate		\$6,688

Notes:

¹ Based on actual construction expenditures by quarter and an interest rate of 3.253%.

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EXHIBIT B: (Continued)

IV- TOTAL ANNUAL COST TO USER FOR WATER SUPPLY STORAGE

Interest and amortization

Non-applicable for this agreement due to lump sum payment

Operation and Maintenance¹

Joint-Use actual for FY 07
 $0.05\% \times 5.97\%^2 \times \$2,529,032$ = \$77

Major Replacement³

Joint-Use actual for FY 07
 $0.05\% \times 7.19\%^4 \times \$58,350$ = \$2

TOTAL ESTIMATED ANNUAL COST **\$79**

Notes:

¹ Annual payment due and payable on the date specified in Article 5c after the end of the 30-year period.

² Percent of Project joint-use operation and maintenance cost allocated to water supply.

³ Major replacement costs are payable only when incurred as specified in Article 5b. It is suggested that the amount shown be placed in a reserve or sinking fund for future contingency.

⁴ Percent of Project joint-use major replacement cost allocated to water supply.

⁵ Major replacement cost in the year incurred.

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EXHIBIT C: AMORTIZATION SCHEDULE PRESENT DEMAND

Not applicable due to lump sum payment prior to initiation of use.

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EXHIBIT D: ASSURANCE OF COMPLIANCE

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF DEFENSE DIRECTIVE UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE AGE DISCRIMINATION ACT OF 1975; AND THE REHABILITATION ACT OF 1973, AS AMENDED

The party executing this assurance, being the applicant recipient of Federal financial assistance under the instrument to which this assurance is attached; HEREBY AGREES THAT, as a part of its obligations under the aforesaid instrument, it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300), issued as Department of Defense Directive 5500.11 (December 28, 1964), pursuant to that title; The Age Discrimination Act of 1975 (42 U.S.C. 5102); the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), to the end that in accordance with the aforementioned Title, Directive and Acts, no person in the United States shall on the ground of race, color, age, sex, religion, handicap or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives Federal financial assistance from the Department of the Army and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any personal property or real property, or interest therein, or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant-recipient by the Department of the Army, or if such assistance is in the form of personal property or real property, or interest therein or structure thereon, then this assurance shall obligate the applicant-recipient or in the case of any transfer of such property, any transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for the period during which it retains ownership or possession of the property whichever is longer. In all other cases, this assurance shall obligate the applicant-recipient for the period during which the Federal financial assistance is extended to it by the Department of the Army. The Department of the Army representatives will be allowed to visit the recipient's facilities. They will inspect the facilities to ensure that there are no barriers to impede the handicap's accessibility in either programs or activities.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the applicant-recipient by the Department of the Army, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The applicant-recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This

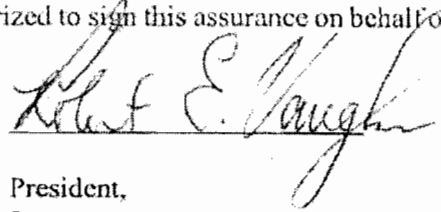
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assurance is binding on the applicant-recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the applicant.

Date 07/09/07



President,
Rogue Aggregates, Inc.

Address:
PO Box 4430
Medford, OR 97501

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EXHIBIT E: CERTIFICATION REGARDING LOBBYING

Water Supply Storage Agreement
LOST CREEK LAKE PROJECT, OREGON

1. The undersigned certifies, to the best of their knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the water supply agreement for the [project name], the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. This form is available to users by requesting it telephonically at (202)761-0115, or by writing to HQUSACE (CECW- P), 441 G Street, NW, Washington, D.C., 20314-1000.

c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ROGUE AGGREGATES, INC.

BY 

President,
Rogue Aggregates, Inc.

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WARRANTY DEED

BAB, LLC, an Oregon limited liability company, Grantor, conveys and warrants to ROGUE AGGREGATES, INC, an Oregon limited liability company, Grantee, the following described real property, free of encumbrances except as specifically set forth herein:

Real property in the County of Jackson, State of Oregon, described as follows:

Parcel 1, as shown on the partition Plat filed in the Office of the Jackson County Oregon Surveyor as No. 18951 and recorded as Partition Plat No. P-78-2005 of "Record of Partition Plats" in Jackson County, Oregon.

Tax Parcel Number: 1-016559-4 and 1-016539-1 (non-seg)

TOGETHER WITH a perpetual easement, ten (10) feet in width for the installation, maintenance and replacement of a pipeline for the conveyance of water from the Rogue River to the property conveyed by this deed (the "dominant estate" for the purposes of this easement. The property of Grantor lying between the property conveyed by this deed, and the Rogue River is the "servient estate" for the purposes of this easement. The servient estate is southerly of the railroad line. This easement shall be appurtenant to the dominant estate, and benefit Grantee, its successors and assigns of the dominant estate. This easement shall include the right to install, maintain and replace a pump and pumping facilities together with the right of ingress and egress for the purpose of maintaining and repairing said pipeline and pumping facilities, which easement will be over and across the easement described in Volume 64, Page 368 of the official records of Jackson County, Oregon, or such other location as where the pipeline and pump are now located.

RESERVING, unto Grantor, Grantor's successors and assigns, a perpetual non-exclusive easement for ingress and egress, over and across, the above described property (the "servient estate"), and appurtenant to the property of Grantor (the "dominant estate"). The dominant estate abuts the servient estate on the easterly boundary of the servient estate. The easement shall be twenty feet in width, and the centerline of the easement shall be the centerline of the existing road on the servient estate. The maintenance expense shall be shared according to usage thereof between the owners of the dominant estate and the owners of the servient estate. The dominant estate is described as:

The true consideration for this conveyance is \$260,000.00

1 - WARRANTY DEED

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Jackson County Official Records 2005-067083
R-WD
Cnt=1 Stn=5 BARTLEGE 11/02/2006 08:40:00 AM
\$20.00 \$5.00 \$11.00 Total: \$36.00



I, Kathleen S. Beckett, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.
Kathleen S. Beckett - County Clerk

RECORDING COVER SHEET
PER ORS 205.234

THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON PRESENTING THE ATTACHED INSTRUMENT FOR RECORDING. ANY ERRORS IN THIS COVER SHEET DOES NOT AFFECT THE TRANSACTION(S) CONTAINED IN THE INSTRUMENT ITSELF.

AFTER RECORDING RETURN TO:

name and address of the person authorized to receive the instrument after recording, as required by ORS 205.180(4) and ORS 205.238

FA 5063763B

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11

1. NAMES OF THE TRANSACTION(S), described in the attached instrument and required by ORS 205.234(A)
NOTE: Transaction as defined by ORS 205.010 means any action required or permitted by state law or rule federal law or regulation to be recorded including, but not limited to, any transfer, encumbrance or release affecting title to or an interest in real property.

Warranty Deed

2. Grantor(s) as described in ORS 205.160.

BAB, LLC

3. Grantee(s) as described in ORS 205.160.

ROGUE AGGREGATES, INC.

4. TRUE AND ACTUAL CONSIDERATION PAID for instruments conveying or contracting to convey fee title to any real estate and all memoranda of such instruments, reference ORS 93.030.

\$260,000.00

5. UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING ADDRESS: for instruments conveying or contracting to convey fee title to any real estate reference ORS 93.260.

PO Box 4430, MEDFORD, OR 97501

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SUBJECT TO:

1. Rights of the public in and to any portion lying within the limits of public roadways, if any, and/or rights of private parties over any portion lying within existing roadways or driveways not disclosed by the public records.
2. A strip of land, 100 feet in width, conveyed to the Oregon and California Railroad Company for railroad purposes, by instrument recorded in Volume 10, Page 792, Jackson County, Oregon, Deed Records.
3. Easement and right of way, 10 feet in width, for water pipeline purposes, and rights in connection therewith, granted Fayette I. Bristol and Esther P. Bristol, co-partners dba Bristol Silica Company, by instrument recorded in Volume 64, Page 368, Jackson County, Oregon, Miscellaneous Records.
4. Easement for transmission and distribution of electricity, granted the California Oregon Power Company, as set forth in Volume 483, Page 392, Jackson County, Oregon, Deed Records.
5. A non-exclusive easement for vehicular and public access, including the terms and provisions thereof, created by instrument recorded November 10, 1980 as Document No. 80-23066, Official Records of Jackson County, Oregon.
6. An easement for ingress and egress, 15 feet in width, including the terms and provisions thereof, reserved in deeds recorded December 14, 1981 as Document Nos. 81-22071 and 81-22072, Official Records of Jackson County, Oregon.
7. An easement for ingress and egress, 75 feet in width, including the terms and provisions thereof, reserved in deeds recorded December 14, 1981 as Document Nos. 81-22071 and 81-22072, Official Records of Jackson County, Oregon.
8. Easement for transmission and distribution of electricity, granted the Pacificorp dba Pacific Power and Light Company, as set forth in Document No. 93-37126, Official Records of Jackson County, Oregon.
9. Rights of the public and of Governmental bodies in and to that portion of the premises herein described lying below the high water mark of the Rogue River and the ownership of the State of Oregon in and to that portion lying below the high water mark thereof.
10. Any adverse claim based upon the assertion that some portion of said land has been removed from or brought within the boundaries thereof by an avulsive movement

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of the river or has been formed by the process of accretion or reliction or has been created by artificial means or has accreted to such portion so created.

11. Access to and from the property herein described is over and across the Central Oregon & Pacific Railroad, formerly Southern Pacific Railroad. Continued use of this crossing cannot be insured. (Affects that portion Southerly of said Railroad)

Roadway Agreement and the terms and conditions thereof, between Michael J. Bird, Harry Burbank and Marilyn Burbank, and Troy Higgins, Astrid Higgins, Hans J. Kuhr and Bea Betty Kuhr-Davans, recorded as No. 95-06471 of the official records of Jackson County, Oregon.

There is no monetary consideration for this transfer is the sum of \$260,000.

Until a change is requested, all tax statements shall be sent to the following address: PO Box 4430
Medford, OR 97501

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 1 day of November, 2005.

BAB, LLC

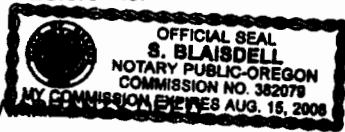
[Signature]
Jimmy L. Brotherton, Manager

STATE OF OREGON)
ss.)
County of Jackson)

On the 1 day of November, 2005, personally appeared Jimmy L. Brotherton and acknowledged the foregoing Warranty Deed to be the voluntary act and deed of BAB, LLC, an Oregon limited liability company.

Before me:

[Signature]
Notary Public for Oregon



3 - V

[Handwritten mark]

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Receipt for Request for Land Use Information

Applicant name: Bogue Aggregates

City or County: Jackson Staff contact: Laura Marshall

Signature: Laura Marshall Phone: 774-6950 Date: 7/24/08

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Last updated 12/22/06 WR

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Oregon Water Resources Department Land Use Information Form

THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.

Applicant Name: Rogue Aggregates
Mailing Address: PO Box 4430
City: Medford State: OR Zip: 97501 Day Phone: 541-664-4155

This application is related to a Measure 37 claim. Yes No

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. 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.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:	Proposed Land Use:
36 S	3 W	19	SW NW	363W19B-100	RR-5	<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used	
36 S	3 W	19	NW NW	363W19B-103	AR & WR	<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	Rock processing
36 S	3 W	18	SW SW	363W18-400	WR	<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	Rock processing
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	

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

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
- Allocation of Conserved Water
- Permit Amendment or Ground Water Registration Modification
- Water-Right Transfer
- Limited Water Use License
- Exchange of Water

Source of water: Reservoir/Pond Ground Water Surface Water (name) _____

Estimated quantity of water needed: 5 acre feet cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)
 Municipal Quasi-municipal Instream Other Mining

Briefly describe: The water will be used for dust control

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Note to applicant: If the Land Use Information Form can be signed by a representative of the applicant, please have the representative sign the receipt below and include it with the application.

Please have a local government representative sign the receipt below and include it with the application.

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form.

This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the 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): _____.

Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)
If approvals have been obtained but all appeal periods have not ended, check "Being pursued".

Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
PLAN Amendment	S.I.Y.C 2004 LPO	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input checked="" type="checkbox"/> Not being pursued
Plot Plan	CHAPTER 8	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input checked="" 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

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

See 215 2008-01311

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SALEM, OREGON**

Name: Charles Bennett Title: Planner II
 Signature: _____ Phone: 774-6115 Date: 8-7-08
 Government Entity: JACKSON COUNTY

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.



APPLICATION TYPE: LUC (Land Use Compatibility Statement)

CASE STATUS: **Staff Denial**

DECISION: **Final Denial**

USE CATEGORY: **Aggregate, Mineral, Oil, & Gas Uses**

ZONE USE ID:

ZONING: **AR | WR**

APPLICATION NO: **ZON2008-01311**

PROCESS: **Type 1**

MASTER NO: **ZON2008-01311**

SITE ADDRESS: **NORTH RIVER RD**

PROJECT NO: **ZON2008-01311**

PRIMARY PARCEL NUMBER: **36-3W-19B-100**

RECEIVED DATE: **07/24/2008**

ASSOCIATED LOTS: **36-3W-18-400**

ASSIGNED STAFF: **CHB**

36-3W-19B-103

DIRECTIONS TO PROPERTY: **3/29/2007 APPROXIMATELY 3 MILES OUTSIDE GOLD HILL GOING WEST ON NORTH RIVER RD. JUST PAST RAILROAD TRESSEL ON THE LEFT SIDE IS THE SILICA PLANT.**

<p><u>People Associated With This Case</u></p> <p><u>Primary Owner</u> BAB LLC 11 S. FRONTAGE RD GOLD HILL, OR 97525</p> <p>BAB LLC 11 FRONTAGE S GOLD HILL, OR 97525</p> <p><u>Owner</u> BAB LLC</p>	<p><u>Case Description</u></p> <p>Water Resources LUC</p>
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COMMENTS:

8/6/08: AGENT DROPPED OFF AN OREGON WATER RESOURCES DEPARTMENT APPLICATION FOR A WATER RIGHT TO DRAW WATER FROM A RESERVOIR/ POND AND PLACE THE WATER IN STORAGE TANKS ON TAX LOT 103. THE WATER WOULD THEN BE TRANSFERRED TO WATER TRUCKS TO SPRAY THE ROADS ON TAX LOT 400. AGENT PAID BASIC \$47 FEE TO IDENTIFY APPLICABLE SECTIONS OF THE CODE AND TO SIGN THE LAND USE INFORMATION FORM SUBMITTED. PROPOSED PURPOSE OF USE IS STATED AS "MINING" AND IS FOR DUST CONTROL DURING ROCK PROCESSING. THE SUBJECT PARCELS ARE ONLY PARTIALLY ZONED AGGREGATE RESOURCE (AR). AN ONGOING BUSINESS OF PROCESSING AND STOCKPILING AGGREGATE MATERIALS MINED FROM TAX LOT 500 UNDER CASE # 93-10-CPA WHICH BRIEFLY MENTIONS TAX LOT 100 (PRESENTLY KNOWN AS TAX LOT 103) IS PREVIOUSLY RECOGNIZED, HOWEVER NO INFORMATION WAS FOUND REGARDING TAX LOT 400 (WHICH IS ZONED WOODLAND RESOURCE) HAVING AN ALLOWED AGGREGATE USE. A COMPREHENSIVE PLAN AMENDMENT IS REQUIRED TO CHANGE TAX LOT 400 FROM WR ZONE TO AN AR ZONE.

ONE OF THE SUBJECT PROPERTIES IS ZONED RURAL RESIDENTIAL-5 WHICH IS WHERE THE WATER WOULD BE PRESUMABLY DRAWN FROM. PER SECTION 5.1.4.C AND LAND USE BOARD OF APPEALS (LUBA) CASE "ROTH V. WOOD & JACKSON COUNTY, LUBA 2000-083 & 2001-121" A RURAL RESIDENTIAL ZONE DOES NOT ALLOW AGGREGATE USES AND THUS THE PROPOSED USE CANNOT PASS THROUGH THE RURAL RESIDENTIAL ZONED PARCEL.

BECAUSE THE PROPOSAL INCLUDES WATER TANKS WHICH ARE DEFINED AS STRUCTURES IN THE 2004 LDO, A PLOT PLAN AND POSSIBLE BUILDING PERMITS WOULD BE REQUIRED PRIOR TO APPROVAL.

A PREVIOUS CASE ON THE SUBJECT PARCELS STILL HAVE OUTSTANDING CONDITIONS. NO PLOT PLAN SUBMITTED. PROPOSAL INCONSISTENT WITH 2004 LDO AND JACKSON COUNTY COMPREHENSIVE PLAN AT THIS TIME. COPY OF APPLICATION SCANNED. THIS ZIS SENT TO APPLICANT. CHB

ATTACHED DOCUMENTS:

Document: ZON08-01311.PDF

Description: submitted documents

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WATER RESOURCES DEPT.
SALEM, OREGON

This decision is limited to the County's review of applicable zoning rules and land use law, as outlined in the Jackson County Comprehensive Plan, the Jackson County Land Development Ordinance, and the Oregon Administrative Rules and Revised Statutes relating to land use. Other County, State, and Federal agencies may have regulatory review authority for development projects. The decision rendered herein neither implies nor guarantees compliance with the requirements of any other regulatory agency. It is the applicant's responsibility to ensure compliance with the requirements of any other regulatory agency or provisions of law prior to initiating development.

Charles Meitz

Date:

8/6/08

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