

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-86054

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition 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 petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law, or by a Settlement Agreement. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

Final Order Incorporating Settlement Agreement

Application History

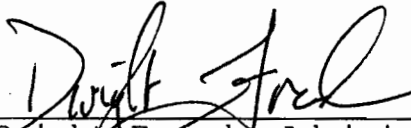
On July 22, 2004, JAMES BUTSCH submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on March 29, 2005. The Applicant filed a protest on May 13, 2005. A Settlement Agreement was signed by all parties as of September 1, 2006. The Settlement Agreement is incorporated into this final order and is attached hereto.

The proposed use would not impair or be detrimental to the public interest.

Order

Application R-86054 therefore is approved and Permit Number R-14357 is issued as limited by the conditions set forth therein.

DATED September 21, 2006


Dwight French, Administrator,
Water Rights and Adjudications Division
for
Phillip C. Ward, Director
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

This document was prepared by Jeana Eastman. 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 at 503-986-0859.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

T5S, R1E, WM

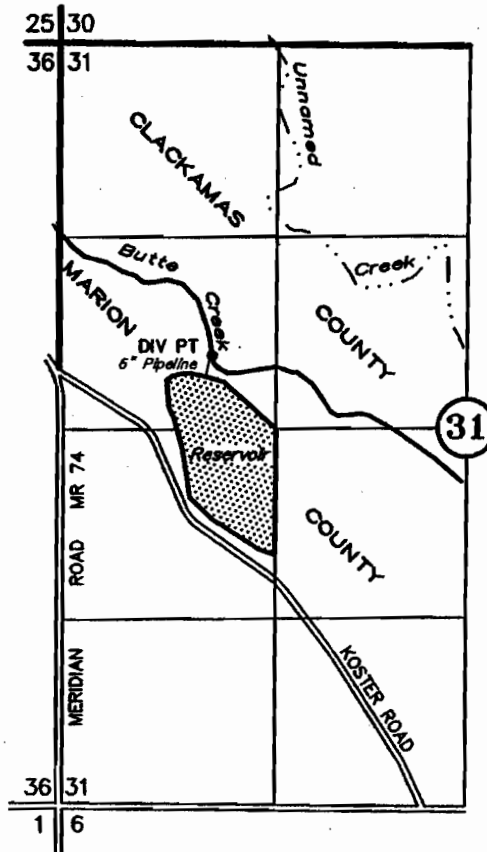
MARION COUNTY

RECEIVED

AUG 06 2004

WATER RESOURCES DEPT
SALEM, OREGON

TAX LOTS:
5 1E 31
00100



DIV PT: 3130' N AND 1060' E OF THE SW CORNER SECTION 31

APPLICATION TO CONSTRUCT A RESERVOIR

UNDER

Application No. R-86054

Permit No. R-14357

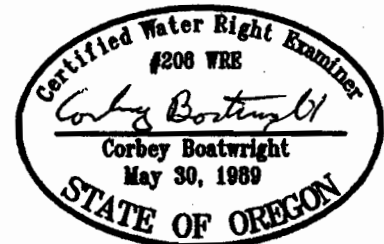
IN THE NAME OF

James Butsch

July 21, 2004

rev. July 30, 2004

SCALE: 1" = 1320'



NOTE: This map is not intended to provide legal dimensions or locations of property ownership lines.

EXPIRES 12-31-05

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the Matter of Water Right Applications G-16288,)
R-86054, and S-86055 in the name of James Butsch,) **SETTLEMENT**
Applicant and Protestant) **AGREEMENT**
_____)

The Oregon Water Resources Department ("OWRD") and James Butsch ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," do hereby stipulate and agree in this "Settlement Agreement" as follows:

Stipulations


- I. On July 22, 2004, Applicant submitted Application R-86054 for the storage of 147.0 acre feet of water from Butte Creek for multi-purpose use and Application S-86055 for the use of 147.0 acre feet of stored water for irrigation use on 950.2 acres, both being in Butte Creek Basin, Marion County.

On August 6, 2004, Applicant submitted Application G-16288 for the storage of 147.0 acre feet of groundwater from drain tiles and for the use of 147.0 acre feet of stored groundwater for irrigation use on 950.2 acres, being in Bochsler Creek Basin, Marion County.
- II. On March 29, 2005, OWRD issued Proposed Final Orders ("PFO's") recommending Applications G-16288, R-86054, and S-86055 be approved with conditions.
- III. On May 13, 2005, Applicant timely filed protests to the PFO's for Applications G-16288, R-86054, and S-86055.
- IV. OWRD and Applicant agree that all issues raised in Applicant's protests to the PFO's for Applications G-16288, R-86054, and S-86055 are resolved solely on the following terms.

Terms of Agreement

- 1. In signing this Settlement Agreement, Applicant withdraws his protests and any requests for contested case hearing to the PFO's for Applications G-16288, R-86054, and S-86055 with prejudice.
- 2. Regarding water right Applications G-16288, R-86054, and S-86055, Applicant hereby expressly waives all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in addition to waiving any right and opportunity challenge to this Settlement Agreement.

3. After Applicant signs this Settlement Agreement, he will mail the signed original back to Oregon Water Resources Department, ATTN: Mike Reynolds, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.
4. Within 30 days after OWRD receives the original Settlement Agreement signed by OWRD and Applicant, along with the required \$250.00 permit recording fee for each application, for a total of \$750.00, OWRD will issue Final Orders and Permits that are consistent with the Draft Final Orders and Draft Permits attached to this Settlement Agreement. The Final Orders will incorporate this Settlement Agreement by reference and as an attachment.
5. Each Party to this Settlement Agreement represents, warrants, and agrees that the person who executes this Agreement on its behalf has the full right and authority to enter into this Agreement on behalf of that Party and bind that Party to the terms of this Settlement Agreement.
6. Each Party to this Settlement Agreement certifies that they have had a reasonable opportunity to review and request changes to the Settlement Agreement, and that they have signed this Settlement Agreement of their own free will and accord. Each Party to this Settlement Agreement also certifies that they have read the entire Settlement Agreement, Draft Final Orders, and Draft Permits, and understand and fully agree with the contents thereof.
7. As mentioned above, permit recording fees in the total amount of \$750.00 must be paid prior to issuance of the permits. If Final Order and/or Permit issuance are delayed due to failure of the Applicant to pay any required fees, this will not constitute breach of the Settlement Agreement by OWRD.
8. This Settlement Agreement may be signed in counterparts, each of which will be deemed an original, and all of which together shall constitute one and the same Settlement Agreement.



Dwight French, Administrator,
Water Rights and Adjudications Division
for
Phillip C. Ward, Director
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

9/1/06

Date



James Butsch, Applicant

8/24/06

Date

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-16288

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

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DRAGEN Final Order Incorporating Settlement Agreement

Application History

On August 6, 2004, JAMES BUTSCH submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on March 29, 2005. The Applicant filed a protest on May 13, 2005. A Settlement Agreement was signed by all Parties as of

██████████ The Settlement Agreement is incorporated into this Final Order and is attached hereto.

The proposed use would not impair or be detrimental to the public interest.

Order

Application G-16288 therefore is approved and Permit Number [REDACTED] is issued as limited by the conditions set forth therein.

[REDACTED]

[REDACTED]

Dwight French, Administrator,
Water Rights and Adjudications Division
for
Phillip C. Ward, Director
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

This document was prepared by Jeana Eastman. 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 at 503-986-0859.

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If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

DRAFT

STATE OF OREGON

DRAFT

COUNTY OF MARION

██████████ PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS ██████████ PERMIT IS HEREBY ISSUED TO

JAMES BUTSCH
15234 BUTSCH LANE NE
MOUNT ANGEL, OR 97362

503-845-2485

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

APPLICATION FILE NUMBER: G-16288

SOURCE OF WATER: DRAIN TILES IN BOCHSLER CREEK BASIN

STORAGE FACILITY: EAST BUTSCH RESERVOIR

PURPOSE OR USE: IRRIGATION USE ON 2.7 ACRES, SUPPLEMENTAL IRRIGATION USE ON 947.5 ACRES AND STORAGE FOR IRRIGATION

MAXIMUM VOLUME: 147.0 ACRE FEET EACH YEAR

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31 FOR IRRIGATION AND NOVEMBER 1 THROUGH MARCH 31 FOR STORAGE

DATE OF PRIORITY: AUGUST 6, 2004

WELL LOCATION: NW 1/4 SW 1/4, SECTION 31, T5S, R1E, W.M.; 1445 FEET NORTH & 25 FEET EAST OF THE SW CORNER, SECTION 31

RESERVOIR LOCATION: NW 1/4 SW 1/4, SECTION 31, T5S, R1E, W.M.; 2110 FEET NORTH & 945 FEET EAST FROM SW CORNER, SECTION 31

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
GOVT LOT: 2	SW 1/4 NW 1/4	16.8 ACRES
	SE 1/4 NW 1/4	1.5 ACRES
GOVT LOT: 3	NW 1/4 SW 1/4	32.0 ACRES
GOVT LOT: 4	SW 1/4 SW 1/4	43.4 ACRES

SECTION 31
TOWNSHIP 5 SOUTH, RANGE 1 EAST, W.M.

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
DLC: 63	SE 1/4 SW 1/4	8.4 ACRES
DLC: 63	SW 1/4 SE 1/4	12.2 ACRES

SECTION 25

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
DLC: 63	NW 1/4 NE 1/4	25.6 ACRES
DLC: 63	SW 1/4 NE 1/4	20.0 ACRES
DLC: 63	SE 1/4 NE 1/4	18.9 ACRES
DLC: 63	NE 1/4 NW 1/4	28.6 ACRES
DLC: 63	SW 1/4 NW 1/4	3.6 ACRES
DLC: 63	SE 1/4 NW 1/4	31.9 ACRES
DLC: 63	NE 1/4 SW 1/4	40.6 ACRES
DLC: 63	NW 1/4 SW 1/4	9.3 ACRES
DLC: 63	SW 1/4 SW 1/4	7.3 ACRES
GOVT LOT: 4	SW 1/4 SW 1/4	6.5 ACRES
DLC: 63	SE 1/4 SW 1/4	20.0 ACRES
GOVT LOT: 3	SE 1/4 SW 1/4	18.3 ACRES
DLC: 63	NE 1/4 SE 1/4	35.7 ACRES
DLC: 63	NW 1/4 SE 1/4	40.1 ACRES
DLC: 63	SW 1/4 SE 1/4	14.2 ACRES
DLC: 63	SE 1/4 SE 1/4	14.0 ACRES

SECTION 36

TOWNSHIP 5 SOUTH, RANGE 1 WEST, W.M.

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
	NE 1/4 NW 1/4	20.0 ACRES
GOVT LOT: 4	NW 1/4 NW 1/4	36.8 ACRES
GOVT LOT: 5	SW 1/4 NW 1/4	38.3 ACRES
	SE 1/4 NW 1/4	20.0 ACRES

SECTION 6

TOWNSHIP 6 SOUTH, RANGE 1 EAST, W.M.

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
	NE 1/4 NE 1/4	38.6 ACRES
	NW 1/4 NE 1/4	39.3 ACRES
	SW 1/4 NE 1/4	35.4 ACRES
	SE 1/4 NE 1/4	36.3 ACRES
	NE 1/4 NW 1/4	1.6 ACRES
	NW 1/4 NW 1/4	13.5 ACRES
	SW 1/4 NW 1/4	17.3 ACRES
	SE 1/4 NW 1/4	17.3 ACRES
	NE 1/4 SW 1/4	38.0 ACRES
	NW 1/4 SW 1/4	28.0 ACRES
	NE 1/4 SE 1/4	1.1 ACRES
	NW 1/4 SE 1/4	34.9 ACRES
	SW 1/4 SE 1/4	37.0 ACRES

SECTION 1

TOWNSHIP 6 SOUTH, RANGE 1 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, for measuring the quantity of water appropriated from East Butsch Reservoir. 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.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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 shall be limited when it interferes with any prior surface or ground water rights.

Complete application of the water to the use shall be made on or before October 1, 2010. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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 _____, 2006

DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Director
Water Resources Department

T5S, R1W, WM
 T5S, R1E, WM
 T6S, R1W, WM
 T6S, R1E, WM

RECEIVED

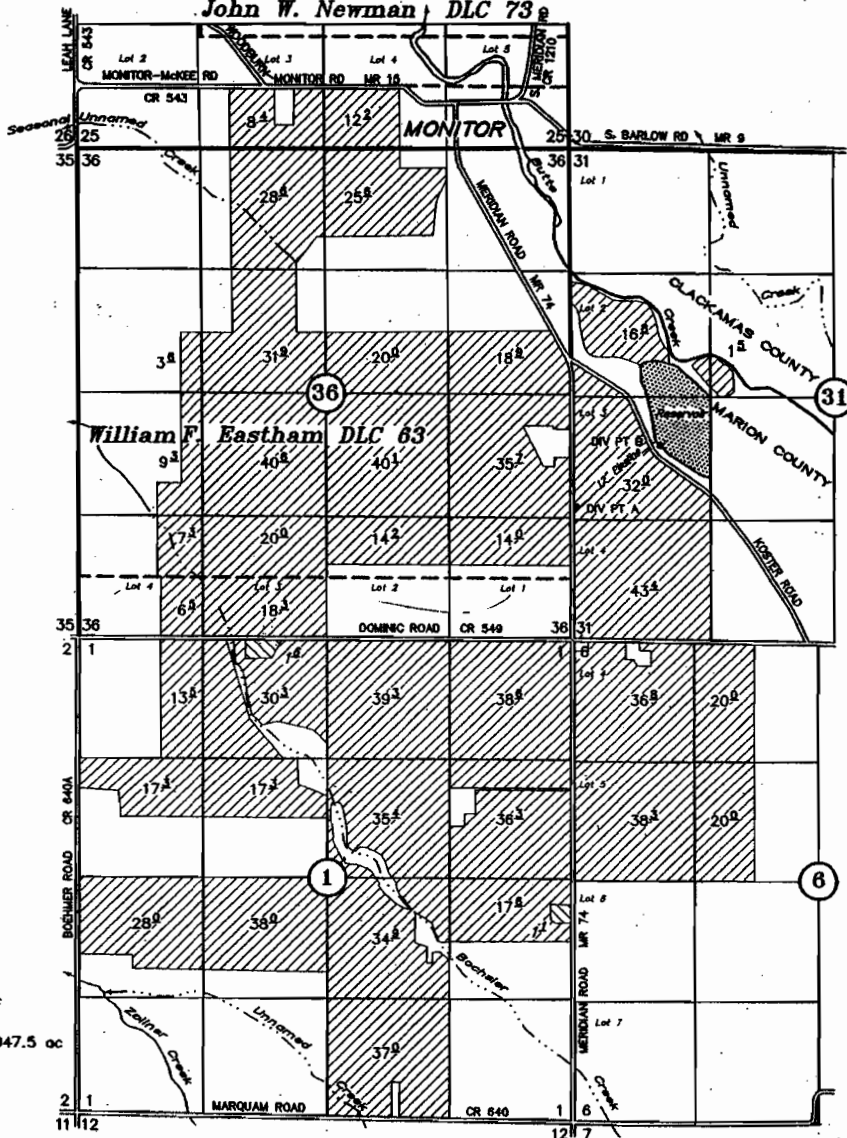
1 AUG 06 2004

WATER RESOURCES DEPT
 SALEM, OREGON

MARION COUNTY

John W. Newman, DLC 73

- TAX LOTS:
 5 1W 36
 00100
 00200
 01000
 01200
 01300
 01400
 02100
 5 1E 31
 00100
 00300
 6 1W 01
 00100
 00200
 00300
 00500
 00700
 00800
 00900
 01700
 01800
 01900
 02000
 6 1E 06
 00800
 00900
 01000
 01100
 01200



- Primary-2.7 ac
- Supplemental-947.5 ac

DIV PT A: 1445' N AND 25' E OF THE SW CORNER SECTION 31
 DIV PT B: 2110' N AND 945' E OF THE SW CORNER SECTION 31

APPLICATION TO APPROPRIATE GROUNDWATER

UNDER

- | | | |
|--------------------------------|--|---|
| 0-436 | 0-313 | 20988 |
| 0-4016 | 0-4633 | 67361 |
| 0-4481 | 0-4708 | 46706 |
| 0-7250 | 0-8706 | 61091 |
| 0-8135 | 0-7504 | 67382 |
| 0-12406 | 0-12327 | ----- |
| 0-12847 | 0-11894 | ----- |
| 0-12719 | 0-11772 | ----- |
| 0-14807 | 0-13700 | ----- |
| 9-28556 | 9-20307 | 24120 |
| 9-32232 | 9-29428 | 25466 |
| 9-34462 | 9-27088 | 30732 |
| 9-34481 | 9-27079 | 33783 |
| 9-40569 | 9-30229 | 38418 |
| 9-43164 | 9-32238 | 43677 |
| 9-44356 | 9-33118 | 40031 (correction certificate being prepared by S. Brown) |
| R-83366 | R-8306 | 57233 |
| 9-53389 | 9-38377 | 57234 |
| 9-71180 | 9-51738 | ----- |
| T-1437 (M-171) | 9-27221 | 33671 |
| T-6481 | 0-1641, 0-2315, 0-2613, 0-4633, 0-7906 | ----- |
| Application No. <u>6-16288</u> | Permit No. S- | Certificate No. ----- |

IN THE NAME OF
James Butsch

July 30, 2004

SCALE: 1" = 1320'



EXPIRES 12-31-05

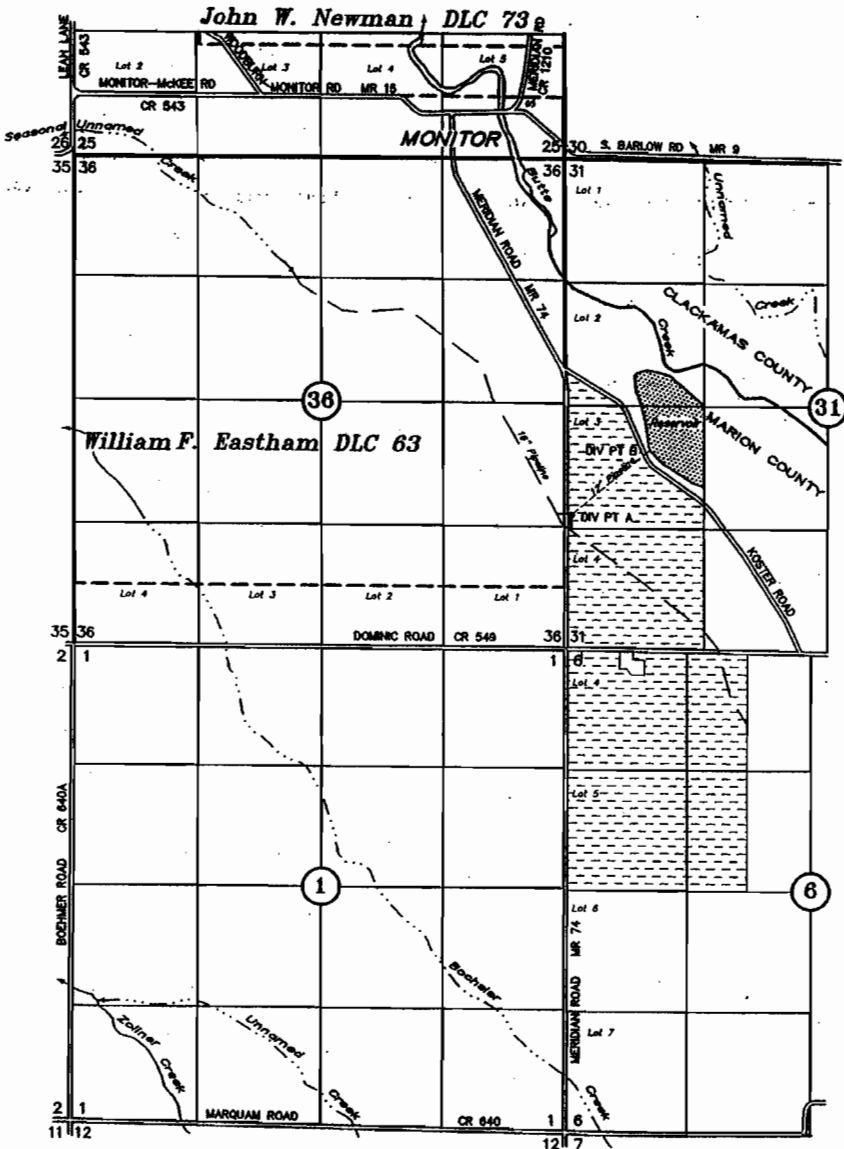
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T5S, R1W, WM
 T5S, R1E, WM
 T6S, R1W, WM
 T6S, R1E, WM
 MARION COUNTY

RECEIVED

AUG 06 2004

WATER RESOURCES DEPT
 SALEM, OREGON




TAX LOTS:

5 1E 31
 00300

6 1E 06
 00800
 00900
 01000
 01100
 01200

Schematic of Existing Drain Tile Collection System

 Area Underlaid with 4" Drain Tile

James Butsch

July 30, 2004

SCALE: 1" = 1320'

app G-16288

Mailing List for FO Copies

Application #G-16288

Original mailed to applicant with claim of beneficial use form:

JAMES BUTSCH
15234 BUTSCH LANE NE
MOUNT ANGEL OR 97362

Copies sent to:

- i. WRD - File # G-16288
- ii. WRD - Ken Stahr

FO and Map Copies sent to (remember to reduce copy margins):

- iii. WRD - Watermaster District #: 16
- iv. WRD - Regional Manager: NWR

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

- v. Corbey Boatwright, CWRE #208

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

CASEWORKER : Jeana Eastman

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-86054

Hearing and Appeal Rights

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DRAFT Final Order Incorporating Settlement Agreement

Application History

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The proposed use would not impair or be detrimental to the public interest.

Order

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[REDACTED] is issued as limited by the conditions set forth therein.

[REDACTED]

DRAFT - DO NOT SIGN

Dwight French, Administrator,
Water Rights and Adjudications Division
for
Phillip C. Ward, Director
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

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Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF CLACKAMAS

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

JAMES BUTSCH
15234 BUTSCH LANE NE
MOUNT ANGEL, OR 97362

503-845-2485

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

APPLICATION FILE NUMBER: R-86054

SOURCE OF WATER: BUTTE CREEK, A TRIBUTARY OF PUDDING RIVER

STORAGE FACILITY: EAST BUTSCH RESERVOIR

PURPOSE OR USE OF THE STORED WATER: MULTIPLE PURPOSE

MAXIMUM VOLUME: 147.0 ACRE FEET EACH YEAR

PERIOD OF USE: NOVEMBER 1 THROUGH MARCH 31

DATE OF PRIORITY: JULY 22, 2004

The area submerged by the reservoir, when full, will be 12.5 ACRES and the maximum height of the dam shall not exceed 17.0 FEET.

POINT OF DIVERSION: SW ¼ NW ¼, SECTION 31, T5S, R1E, W.M.; 3130 FEET NORTH & 1060 FEET EAST FROM SW CORNER, SECTION 31

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

SW ¼ NW ¼
NW ¼ SW ¼
SECTION 31
TOWNSHIP 5 SOUTH, RANGE 1 EAST, 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. Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I. Additionally, before water use may begin under this permit, if the reservoir is located in channel then weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, a gated valve outlet must be installed. A written waiver may be obtained from the local Watermaster if in his judgment the installation of the weir(s) will provide no public benefit.
- C. The permittee shall allow the watermaster access to the meter or measuring device, and the staff gage; provided however, where the meter or measuring device, or the staff gage are located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall develop a detailed and accurate area-capacity curve for the reservoir.

The permittee shall install, maintain, and operate fish screening consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion. The required screen is to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined a screen is not necessary.

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 in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

Dam Conditions

All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

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

The constructed works shall conform to the approved plans and specifications on file with the Water Resources Dam Safety program. The engineer of record shall notify the Water Resources Dam Safety program before making any significant change to the approved design prior to or during construction.

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 final construction deviates from the approved design a set reproducible as-constructed drawings, including a revised reservoir capacity graph or table, must accompany the engineer's letter of completion.

Routine maintenance or repair of the dam, its spillway and all appurtenant structures shall be performed to include, but not limited to, the removal of woody vegetation or debris, prompt restoration of areas of erosion or to replace defective equipment necessary for the continued safe operation of the project works.

Except for routine repair and maintenance, design plans and specifications must be prepared by an Oregon licensed professional engineer and approved by the Water Resources Dam Safety program prior to any enlargement, modification, or alteration of the dam, its spillway or any appurtenant structure.

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 reservoir shall be filled and complete application of the water to the use shall be made on or before October 1, 2010. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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).

████████████████████ 2006

████████████████████ DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Director
Water Resources Department

T5S, R1E, WM

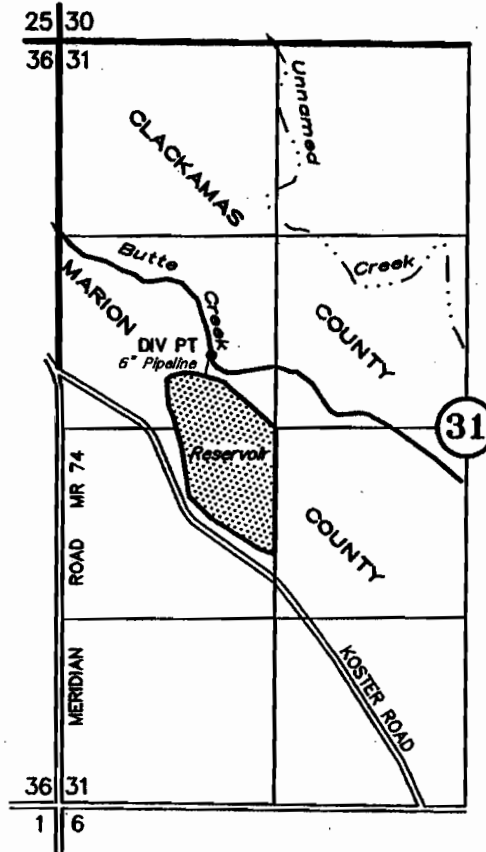
MARION COUNTY

RECEIVED

AUG 06 2004

WATER RESOURCES DEPT
SALEM, OREGON

TAX LOTS:
5 1E 31
00100



DIV PT: 3130' N AND 1060' E OF THE SW CORNER SECTION 31

APPLICATION TO CONSTRUCT A RESERVOIR
UNDER

Application No. R-86054

Permit No. _____

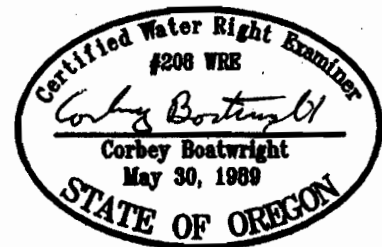
IN THE NAME OF

James Butsch

July 21, 2004

rev. July 30, 2004

SCALE: 1" = 1320'



EXPIRES 12-31-05

NOTE: This map is not intended to provide legal dimensions or locations of property ownership lines.

Mailing List for FO Copies

Application #R-86054

Original mailed to applicant with claim of beneficial use form:

JAMES BUTSCH
15234 BUTSCH LANE NE
MOUNT ANGEL OR 97362

Copies sent to:

1. WRD - File # R-86054
2. WRD - Ken Stahr

Copies Mailed
By: _____ (SUPPORT STAFF)
on: _____ (DATE)

FO and Map Copies sent to (remember to reduce copy margins):

3. WRD - Watermaster District #: 16
4. WRD - Regional Manager: NWR

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

5. Corbey Boatwright, CWRE #208

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

CASEWORKER : Jeana Eastman

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number S-86055

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition 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 petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law, or by a Settlement Agreement. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

DRAFT Final Order Incorporating Settlement Agreement

Application History

On July 22, 2004, JAMES BUTSCH submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on March 29, 2005. The Applicant filed a protest on May 13, 2005. A Settlement Agreement was signed by all parties as of

██████████ The Settlement Agreement is incorporated into this final order and is attached hereto.

The proposed use would not impair or be detrimental to the public interest.

Order

Application S-86055 therefore is approved and Permit [REDACTED] is issued as limited by the conditions set forth therein.

[REDACTED] 2/19/04

DRAFT - DO NOT SIGN

Dwight French, Administrator,
Water Rights and Adjudications Division
for
Phillip C. Ward, Director
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

This document was prepared by Jeana Eastman. 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 at 503-986-0859.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF MARION

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

JAMES BUTSCH
15234 BUTSCH LANE NE
MOUNT ANGEL, OR 97362

503-845-2485

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

APPLICATION FILE NUMBER: S-86055

SOURCE OF WATER: EAST BUTSCH RESERVOIR, TO BE CONSTRUCTED UNDER APPLICATION R-86054, PERMIT R- , A TRIBUTARY OF BUTTE CREEK

PURPOSE OR USE: IRRIGATION USE ON 2.7 ACRES AND SUPPLEMENTAL IRRIGATION USE ON 947.5 ACRES

MAXIMUM VOLUME: 147.0 ACRE FEET EACH YEAR

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: JULY 22, 2004

POINT OF DIVERSION LOCATION: NW 1/4 SW 1/4, SECTION 31, T5S, R1E, W.M.; 2110 FEET NORTH & 945 FEET EAST FROM SW CORNER, SECTION 31

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
GOVT LOT: 2	SW 1/4 NW 1/4	16.8 ACRES
	SE 1/4 NW 1/4	1.5 ACRES
GOVT LOT: 3	NW 1/4 SW 1/4	32.0 ACRES
GOVT LOT: 4	SW 1/4 SW 1/4	43.4 ACRES

SECTION 31
TOWNSHIP 5 SOUTH, RANGE 1 EAST, W.M.

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
DLC: 63	SE 1/4 SW 1/4	8.4 ACRES
DLC: 63	SW 1/4 SE 1/4	12.2 ACRES

SECTION 25

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
DLC: 63	NW 1/4 NE 1/4	25.6 ACRES
DLC: 63	SW 1/4 NE 1/4	20.0 ACRES
DLC: 63	SE 1/4 NE 1/4	18.9 ACRES
DLC: 63	NE 1/4 NW 1/4	28.6 ACRES
DLC: 63	SW 1/4 NW 1/4	3.6 ACRES
DLC: 63	SE 1/4 NW 1/4	31.9 ACRES
DLC: 63	NE 1/4 SW 1/4	40.6 ACRES
DLC: 63	NW 1/4 SW 1/4	9.3 ACRES
DLC: 63	SW 1/4 SW 1/4	7.3 ACRES
GOVT LOT: 4	SW 1/4 SW 1/4	6.5 ACRES
DLC: 63	SE 1/4 SW 1/4	20.0 ACRES
GOVT LOT: 3	SE 1/4 SW 1/4	18.3 ACRES
DLC: 63	NE 1/4 SE 1/4	35.7 ACRES
DLC: 63	NW 1/4 SE 1/4	40.1 ACRES
DLC: 63	SW 1/4 SE 1/4	14.2 ACRES
DLC: 63	SE 1/4 SE 1/4	14.0 ACRES

SECTION 36

TOWNSHIP 5 SOUTH, RANGE 1 WEST, W.M.

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
	NE 1/4 NW 1/4	20.0 ACRES
GOVT LOT: 4	NW 1/4 NW 1/4	36.8 ACRES
GOVT LOT: 5	SW 1/4 NW 1/4	38.3 ACRES
	SE 1/4 NW 1/4	20.0 ACRES

SECTION 6

TOWNSHIP 6 SOUTH, RANGE 1 EAST, W.M.

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
	NE 1/4 NE 1/4	38.6 ACRES
	NW 1/4 NE 1/4	39.3 ACRES
	SW 1/4 NE 1/4	35.4 ACRES
	SE 1/4 NE 1/4	36.3 ACRES
	NE 1/4 NW 1/4	30.3 ACRES
	NW 1/4 NW 1/4	13.5 ACRES
	SW 1/4 NW 1/4	17.3 ACRES
	SE 1/4 NW 1/4	17.3 ACRES
	NE 1/4 SW 1/4	38.0 ACRES
	NW 1/4 SW 1/4	28.0 ACRES
	NE 1/4 SE 1/4	17.6 ACRES
	NW 1/4 SE 1/4	34.9 ACRES
	SW 1/4 SE 1/4	37.0 ACRES

SECTION 1

TOWNSHIP 6 SOUTH, RANGE 1 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall install, maintain, and operate fish screening consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion. The required screen is to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined a screen is not necessary.

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 in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

STANDARD CONDITIONS

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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.

Complete application of the water to the use shall be made on or before October 1, 2010. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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: 11/17/2006

DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Director
Water Resources Department

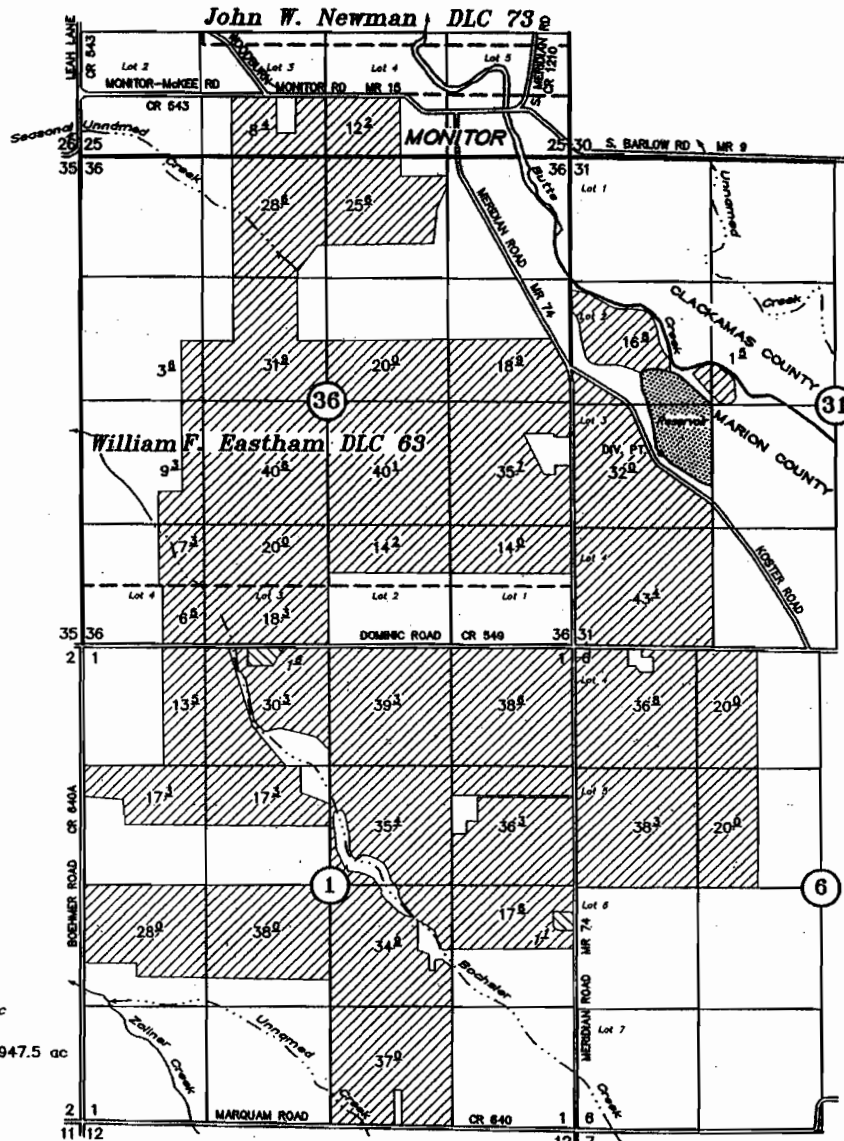
T5S, R1W, WM
T5S, R1E, WM
T6S, R1W, WM
T6S, R1E, WM

MARION COUNTY

RECEIVED

AUG 06 2004

WATER RESOURCES DEPT
SALEM, OREGON



- TAX LOTS:
- 5 1W 36
 - 00100
 - 00200
 - 01000
 - 01200
 - 01300
 - 01400
 - 02100
 - 5 1E 31
 - 00100
 - 00300
 - 6 1W 01
 - 00100
 - 00200
 - 00300
 - 00500
 - 00700
 - 00800
 - 00900
 - 01700
 - 01800
 - 01900
 - 02000
 - 6 1E 06
 - 00800
 - 00900
 - 01000
 - 01100
 - 01200

Primary - 2.7 ac
Supplemental - 947.5 ac

DIV PT : 2110' N AND 945' E OF THE SW CORNER SECTION 31

APPLICATION TO APPROPRIATE SURFACE WATER

UNDER

- G-436
- G-4916
- G-6491
- G-7250
- G-8135
- G-12409
- G-12547
- G-12719
- G-14807
- S-22858
- S-32232
- S-34462
- S-34481
- S-40569
- S-43154
- S-44325
- R-63368
- S-63369
- S-71160
- T-1437 (M-171)
- T-6481
- S-26055

- G-315
- G-4633
- G-6109
- G-6706
- G-7504
- G-12327
- G-11894
- G-11772
- G-13700
- S-20307
- S-25428
- S-27088
- S-27079
- S-30229
- S-32236
- S-33116
- R-6306
- S-36377
- S-61736
- S-27281
- G-1641, G-2315, G-2813, G-4633, G-7508

- 26988
- 67381
- 46706
- 51091
- 67382
-
-
-
-
- 24120
- 28486
- 30732
- 33753
- 36418
- 43677
- 40031 (correction certificate being prepared by S. Brown)
- 57233
- 57234
-
- 33671

Application No. S-26055

Permit No. _____

Certificate No. _____

IN THE NAME OF

James Butsch

July 21, 2004
rev July 23, 2004

SCALE: 1" = 1320'



NOTE: This map is not intended to provide legal dimensions or locations of property ownership lines.

EXPIRES 12-31-05

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- v. Corbey Boatwright, CWRE #208

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

CASEWORKER: Jeana Eastman

Application S-86055
Basin 2
jme

Water Resources Department
Volume 15 BUTTE CR

PERMIT. [REDACTED]

16