

Application for a Permit to Use Surface Water



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

BASE	450
ZONAF	600
ZIAF	21
RECORD	450
	<hr/>
	\$1521.00

Water-Use Permit Application Processing

1. Completeness Determination

The Department evaluates whether the application and accompanying map contain all of the information required under OAR 690-310-0040 and OAR 690-310-0050 (www.oregon.gov/owrd/law.our). The Department also determines whether the proposed use is prohibited by statute. If the Department determines that the application is incomplete, all fees have not been paid, or the use is prohibited by statute, the application and all fees submitted are returned to the applicant.

2. Initial Review

The Department reviews the application to determine whether water is available during the period requested, whether the proposed use is restricted or limited by rule or statute, and whether other issues may preclude approval of or restrict the proposed use. An Initial Review (IR) containing preliminary determinations is mailed to the applicant. The applicant has 14 days from the mailing date to withdraw the application from further processing and receive a refund of all fees paid minus \$200. The applicant may put the application on hold for up to 180 days and may request additional time if necessary.

3. Public Notice

Within 7 days of the mailing of the initial review, the Department gives public notice of the application in the weekly notice published by the Department at www.oregon.gov/owrd. The public comment period is 30 days from publication in the weekly notice.

4. Proposed Final Order Issued

The Department reviews any comments received, including comments from other state agencies related to the protection of sensitive, threatened or endangered fish species. Within 60 days of completion of the IR, the Department issues a Proposed Final Order (PFO) explaining the proposed decision to deny or approve the application. A PFO proposing approval of an application will include a draft permit, and may request additional information or outstanding fees required prior to permit issuance.

5. Public Notice

Within 7 days of issuing the PFO, the Department gives public notice in the weekly notice. Notice includes information about the application and the PFO. Protest must be received by the Department within 45 days after publication of the PFO in the weekly notice. Anyone may file a protest. The protest filing fee is \$300.00 for the applicant and \$600.00 for non-applicants. Protests are filed on approximately 10% of Proposed Final Orders. If a protest is filed the Department will attempt to settle the protest but will schedule a contested case hearing if necessary.

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6. Final Order Issued

If no protests are filed, the Department can issue a Final Order within 60 days of the proposed period for receiving protest. If the application is approved, a permit is issued. The permit specifies the details of the authorized use and any terms, limitations or conditions that the Department deems appropriate.

WATER RESOURCES DEPT
Salem, Oregon

Application for a Permit to Use Surface Water



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

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant Information

NAME		PHONE (HM)	
PHONE (WK)	CELL	FAX	
ADDRESS			
CITY	STATE	ZIP	E-MAIL *

Organization Information

NAME MEDURI FARMS, INC JOSEPH J. MEDURI, PRESIDENT		PHONE 503-623-0308	FAX 503-623-0726
ADDRESS PO Box 636			CELL
CITY DALLAS	STATE OR	ZIP 97338	E-MAIL * JOE@MEDURIFARMS.COM

Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT / BUSINESS NAME JEANNE BOATWRIGHT		PHONE 503-363-9225	FAX 503-363-1051
ADDRESS BOATWRIGHT ENGINEERING, INC. 2613 12TH STREET SE			CELL
CITY SALEM	STATE OR	ZIP 97302	E-MAIL * JEANNE@BOATWRIGHTENGR.COM

Note: Attach multiple copies as needed

* By providing an e-mail address, consent is given to receive all correspondence from the Department electronically. (paper copies of the final order documents will also be mailed.)

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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.
- The Department encourages all applicants to wait for a permit to be issued before beginning construction of any proposed diversion. Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- 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 cancelled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to get water to which they are entitled.

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SALEM, OREGON

 I (we) affirm that the information contained in this application is true and accurate.

Applicant Signature _____


Print Name and title if applicable
Joseph J. Meduri

Date
3-4-14

Applicant Signature _____

Print Name and title if applicable _____

Date _____

Revised	App No. <u>C-02066</u>	For Department Use	Permit No. _____	Date _____
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SECTION 2: PROPERTY OWNERSHIP

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

- Yes
 - There are no encumbrances.
 - This land is encumbered by easements, rights of way, roads or other encumbrances.
- No
 - 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 irrigation and/or domestic use only (ORS 274.040).
 - Water is to be diverted, conveyed, and/or used only on federal lands.

List the names and mailing addresses of all affected landowners (*attach additional sheets if necessary*).

E. HAROLD SCHIPPOREIT RLT
 GRACE E. SCHIPPOREIT RLT
 4455 27TH AVENUE SE
 SALEM, OR 97302

SECTION 3: SOURCE OF WATER

A. 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: PARADISO RESERVOIR	Tributary to: UNNAMED TRIBUTARY OF NEIL CREEK
Source 2: _____	Tributary to: _____
Source 3: _____	Tributary to: _____
Source 4: _____	Tributary to: _____

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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).

R-

B. Applications to Use Stored Water

Do you, or will you, own the reservoir(s) described in item 3A 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 3A 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.

SECTION 4: WATER USE

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	USE	PERIOD OF USE	AMOUNT
PARADISO RESERVOIR	IRRIGATION	MARCH 1 - OCT 31	41 <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

For irrigation use only:
 Please indicate the number of primary and supplemental acres to be irrigated.
 Primary: 55 Acres Supplemental: _____ Acres
 List the Permit or Certificate number of the underlying primary water right(s): _____
 Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 41

- If the use is **municipal or quasi-municipal**, attach **Form M**
- If the use is **domestic**, indicate the number of households: _____
- If the use is **mining**, describe what is being mined and the method(s) of extraction:

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 SALEM, OREGON

SECTION 5: WATER MANAGEMENT

A. Diversion and Conveyance

What equipment will you use to pump water from your source?

Pump (give horsepower and type): 20 HP TURBINE, VARIABLE SPEED DRIVE

Other means (describe): _____

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.

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B. Application Method

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler)

DRIP IRRIGATION

C. Conservation

Please describe why the amount of water requested is needed and measures you propose to: prevent waste; measure the amount of water diverted; prevent damage to public uses of affected surface waters.

WASTE WILL BE PREVENTED BY APPLYING WATER BY DRIP AT INTERVALS AND RATES THAT ASSURE THAT THE PLANTS ARE ABLE TO UPTAKE THE IRRIGATION. MEASUREMENT WILL BE BY TOTALIZING FLOW METER.

SECTION 6: RESOURCE PROTECTION

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: NO AQUATIC LIFE IS ANTICIPATED. DIVERSION WILL BE SCREENED TO PREVENT CLOGGING OF INTAKE TO DRIP SYSTEM. SEE EMAIL AND LETTER FROM ODFW, ATTACHED
- Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.
Describe planned actions: RESERVOIR WILL BE BUILT ON CHANNEL. RIPARIAN AREA WILL BE INUNDATED. UPPER BANKS OF STORAGE RESERVOIR WILL BE SEEDED. DAM LOCATION IS SITE OF EXISTING CULVERT. WETLAND AREAS ARE CONFINED TO THE THREAD OF THE CREEK AND WILL NOT BE DISTURBED.
- Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.
Describe: RESERVOIR CONSTRUCTION WILL OCCUR DURING A SINGLE SEASON AND WILL BE PERFORMED DURING JULY-OCTOBER WHEN THE CHANNEL IS DRY.
- Water quality will be protected by preventing erosion and run-off of waste or chemical products.
Describe: APPLICATIONS OF CHEMICALS AND FERTILIZERS WILL BE IN AMOUNTS THAT THE CROP IS ABLE TO USE WITHOUT WASTE.

SECTION 7: PROJECT SCHEDULE

Date construction will begin: **OCTOBER 2014**

Date construction will be completed: **OCTOBER 2016**

Date beneficial water use will begin: **MARCH 2015**

SECTION 8: WITHIN A DISTRICT

Check here if the point of diversion or place of use are located within or served by an irrigation or other water district.

Irrigation District Name	Address	
City	State	Zip

SECTION 9: REMARKS

Use this space to clarify any information you have provided in the application.

SEE ATTACHED LETTER FROM ODFW DATED JANUARY 22, 2014 FOR FISH PASSAGE EXEMPTION FOR THE UNNAMED TRIBUTARY OF NEIL CREEK, EXEMPTION APPLICATION #E-02-0028. THIS EXEMPTION IS FOR A RESERVOIR APPROXIMATELY 1/4 MILE DOWNSTREAM OF THE PROPOSED PARADISO RESERVOIR.

SEE ATTACHED EMAIL FROM ODFW DATED JANUARY 31, 2014 CONFIRMING THAT NO FISH HABITAT EXISTS ON SITE AND NO FISH PASSAGE IS REQUIRED.

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SALEM, OREGON

REEL 3467 PAGE 338
MARION COUNTY
BILL BURGESS, COUNTY CLERK
01-29-2013 10:52 am.
Control Number 331944 \$ 56.00
Instrument 2013 00004055

SEND TAX STATEMENTS TO:
Unchanged
AFTER RECORDING, RETURN TO:
Evans + Batlan, Attorneys at Law
969 - 13th St. SE
Salem, OR 97302

**ASSIGNMENT OF BUYER'S INTEREST AND
MODIFICATION AGREEMENT OF
LAND SALES CONTRACT**

DATE: January 28, 2013

PARTIES: *Seller:* E. HAROLD SCHIPPOREIT and GRACE E. SCHIPPOREIT, Cotrustees of the E. HAROLD SCHIPPOREIT REVOCABLE LIVING TRUST, dated October 21, 1998; and GRACE E. SCHIPPOREIT and E. HAROLD SCHIPPOREIT, Cotrustees of the GRACE E. SCHIPPOREIT REVOCABLE LIVING TRUST, dated October 21, 1998

Buyer/Assignor: MARIO C. MEDURI

Guarantor/Assignee: JOSEPH J. MEDURI

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RECITALS:

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SALEM, OREGON

A. On April 30, 2008, the parties entered into a Land Sale Contract, a Memorandum of which was recorded on May 1, 2008, in Reel 2948, Page 243, in Marion County, Oregon ("*Contract*"), on the subject real property commonly known as 8501 Jackson Hill Road SE, Salem, Oregon ("*Property*"), more particularly described as:

Beginning at the quarter section between Section 34 and 35, Township 8 South, Range 3 West of the Willamette Meridian on the East line of said Section; running thence North 20.08 chains; thence East 56 links to the center of the County Road leading from the Salem, Oregon to Jefferson, Oregon; thence South 11° 30' East 12.35 chains along the center of said County Road to a point; thence South 1° East along the center of said County Road 14.34 chains to a point; thence South 7° 15' East along the center of said County Road 4.34 chains to a point; thence South 13° West along the center of said County Road to a point 11.945 chains South and 3.30 chains East of the quarter corner between said sections 34 and 35; thence West parallel with the North line of the Southeast Quarter of said Section 34, 43.30 chains to the West line of said quarter sections; thence North 11.945 chains to the Northwest corner of said quarter section; thence East along the North line of said quarter section to the point of beginning. Tax Account No. R33378.

B. The obligations and duties of Buyer/Assignor thereunder were unconditionally guaranteed by Guarantor/Assignee.

C. There is currently owing to Seller thereon the sum of \$560,941.95 with interest at the rate of 7% per

This document is recorded as an accommodation only. No liability is accepted for the condition of title or for the validity, sufficiency or effect of this document.

A113026

annum from January 27, 2012.

D. The entire balance of principal and interest is due in full on or before February 1, 2013.

E. Buyer/Assignor desires to transfer all of his right, title, and interest in the Contract and real property to Guarantor/Assignee; further, they desire to modify the terms of said Contract; Seller is willing to cooperate on the terms and conditions set forth below.

AGREEMENT:

In consideration of the mutual covenants contained herein and in consideration of Seller's forbearance from foreclosure, the parties agree as follows:

1. **Recitals.** The parties reassert, acknowledge, and include as part of this Agreement the Recitals set forth above.

2. **Assignment.** Buyer/Assignor hereby conveys and assigns all right, title, and interest in the Contract and the Property to Guarantor/Assignee, who personally and unconditionally assumes all duties and responsibilities therein. The rights and responsibilities of the Guarantor/Assignee shall now be those of the Buyer in the Contract, and Buyer/Assignor shall have no further claim to any interest in the Contract or the Property.

3. **Modified Terms.** The terms and provisions of the Contract are modified as follows:

- a. On or before February 1, 2013, Buyer shall pay Seller an annual payment of \$55,641.51.
- b. The interest rate shall change, effective February 2, 2013, reducing from 7% to 4% per annum.
- c. The remaining balance shall be fully amortized over three years, with payments due as follows:
 - i. On or before February 1, 2014, Buyer shall pay Seller \$196,441.09;
 - ii. On or before February 1, 2015, Buyer shall pay Seller \$196,441.09; and
 - iii. On or before February 1, 2016, Buyer shall pay Seller the remaining balance in full, both principal and interest.

4. **Admission of Debt.** All parties hereby acknowledge that the Contract is a valid and enforceable obligation, due and payable in full without defenses, setoff or counterclaim of any kind.

5. **Release.** Buyer/Assignor and Guarantor/Assignee, for themselves, their successors, heirs, executors, administrators and assigns, hereby release, acquit and forever discharge Seller and any other person, firm or corporation charged or chargeable with responsibility or liability, their heirs, representatives, and assigns from any and all claims, demands, rights, damages, costs, expenses, loss of services, compensation, actions and causes of action arising from or related to the Contract, including, but not limited to, violation of any law, fraud, nondisclosure, or misrepresentation which they might have as of the date of execution of this

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Requested By: Paul 11/01/2013

Agreement, whether known or unknown, foreseen or unforeseen, liquidated, contingent or matured, including, without limitation, any damages and the consequences thereof resulting or to result from the events described or referred to in the above Recitals (including actual matters now unknown which may hereafter give rise to causes of action which are presently unknown, unanticipated, or unsuspected).

6. General Provisions.

a. Kathleen A. Evans, of Evans ♦ Batlan, Attorneys at Law, represents Seller only. Buyer/Assignee and Guarantor/Assignor have directed Seller to draft this document as it reads, and they acknowledge that they have the right to receive independent legal advice with regard to their rights or asserted rights arising out of the matters described in this document, and also with regard to the advisability of making and executing it; they further acknowledge that they have not relied upon any statement or representation, oral or written, made by Seller as to the facts involved in this controversy or as to any of the rights of the parties to this Agreement. The rule of construction that a written agreement is construed against the party preparing or drafting such agreement shall specifically NOT be applicable to the interpretation of this Agreement.

b. Buyer/Assignor and Guarantor/Assignee hereby expressly assume the risk of any mistake of fact and of any facts proven to be other than or different from the facts now known to any of the parties to this Agreement or believed by them to exist. It is the expressed intent of the parties to this Agreement to settle and adjust, finally and forever, without regard to who may or may not be correct in any understanding of the fact or law relating thereto, this controversy.

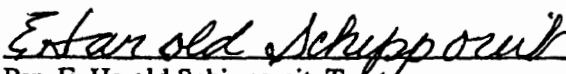
c. In the event any legal proceeding is commenced for the purpose of interpreting or enforcing any provision of this Agreement, the prevailing party shall be entitled to recover a reasonable attorney's fee in that proceeding, or any appeal thereof, in addition to the costs and disbursements allowed by law.

d. This Agreement incorporates all negotiations of the parties and is the final written expression and agreement of the parties with respect to the subject matter of this Agreement.

e. This Agreement is a revision only, and not a novation, and except as expressly provided otherwise in this Agreement, nothing herein shall in any way impair, alter, waive, annul, vary or affect any term, provision, condition, covenant, right, power, or remedy contained in the Contract documents, it being the intent of the parties that the terms, provisions, conditions, covenants, rights, powers and remedies contained therein continue in full force and effect except as expressly modified by the terms of this Agreement or expressly superseded by additional documents executed in connection with this Agreement, if any.

SELLER

E. HAROLD SCHIPPOREIT REVOCABLE LIVING TRUST, dated October 21, 1998; and GRACE E. SCHIPPOREIT REVOCABLE LIVING TRUST, dated October 21, 1998


By: E. Harold Schipporeit, Trustee


By: Grace E. Schipporeit, Trustee

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BUYER/ASSIGNOR

Mario C. Meduri

GUARANTOR/ASSIGNEE

Joseph J. Meduri

STATE OF OREGON, County of Marion) ss.

The foregoing instrument was acknowledged before me this 28 day of January, 2013, by E. Harold Schipporeit and Grace E. Schipporeit, as Trustees.



Kelly J. Miller
Notary Public for Oregon
My Commission Expires: 3/10/13

STATE OF OREGON, County of Marion) ss.

The foregoing instrument was acknowledged before me this 28 day of January, 2013, by Mario C. Meduri.



Kelly J. Miller
Notary Public for Oregon
My Commission Expires: 3/10/13

STATE OF OREGON, County of Marion) ss.

The foregoing instrument was acknowledged before me this 28 day of January, 2013, by Joseph J. Meduri.



Kelly J. Miller
Notary Public for Oregon
My Commission Expires: 3/10/13

1.28.13 10:21
F:\WORD\DOCEST\WC\client Documents\Schipporeit, Harold and Grace\Meduri Contract Modification\Modification Agreement 2.wpd

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WATER RESOURCES DEPT
SALEM, OREGON

REEL: 3467

PAGE: 338

January 29, 2013, 10:52 am.

CONTROL #: 331944

**State of Oregon
County of Marion**

**I hereby certify that the attached
instrument was received and duly
recorded by me in Marion County
records:**

FEE: \$ 56.00

**BILL BURGESS
COUNTY CLERK**

THIS IS NOT AN INVOICE.

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**WATER RESOURCES DEPT
SALEM, OREGON**

Oregon Department of Water Resources
725 Summer Street NE, Suite A
Salem, Oregon 97301

Re: APPLICATION TO STORE WATER IN A RESERVOIR
JOSEPH J. MEDURI
MEDURI FARMS

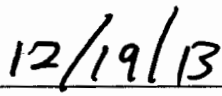
We, **E. Harold Schipporeit** and **Grace E. Schipporeit**, as *Cotrustees of the E. Harold Schipporeit Revocable Living Trust dated October 21, 1998* and as *Cotrustees of the Grace E. Schipporeit Revocable Living Trust dated October 21, 1998*, are the sellers of a piece of property being acquired by Joseph J. Meduri by an ASSIGNMENT OF BUYER'S INTEREST AND MODIFICATION OF LAND SALES CONTRACT recorded in Reel 3467, Page 338 of the Marion County Deed Records. Said property is identified as Marion County Tax Account Number R33378 and Marion County Assessor's Map No. 083W34-01000, and is located at 8501 Jackson Hill Road SE, Salem, OR.

We are aware that Mr. Meduri is making application to the Oregon Water Resources Department for a permit to *Store Water in a Reservoir* on said property and we support his application.

Sincerely,



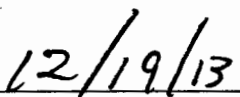
E. Harold Schipporeit



Date



Grace E. Schipporeit



Date

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WATER RESOURCES DEPT
SALEM, OREGON



Oregon Water Resources Department
Land Use Information Form

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WATER RESOURCES DEPT
SALEM, OREGON

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: Meduri Farms, Inc
First Last

Mailing Address: PO Box 636

Dallas OR 97338 Daytime Phone: 503-623-0308
City State Zip

A. Land and Location

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

Table with 8 columns: Township, Range, Section, 1/4 1/4, Tax Lot #, Plan Designation (e.g., Rural Residential/RR-5), Water to be: (Diverted, Conveyed, Used), Proposed Land Use. Rows include details for 8S 3W 34 and 8S 3W 35 sections.

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Marion County

B. Description of Proposed Use

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

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

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

Estimated quantity of water needed: 41 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

Briefly describe:

Use water from a storage reservoir to provide irrigation water for blueberry crop.

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department. See bottom of next page. ->

5-87966

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 the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): in unigation MCC 17.136
- Land uses to be served by the 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:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

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.

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SALEM, OREGON

Name: LISA MILLIMAN Title: ASSOCIATE PLANNER
 Signature: Lisa Milliman Phone: 503 528 5038 Date: 3/5/14
 Government Entity: MARION 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.

Receipt for Request for Land Use Information

Applicant name: _____
 City or County: _____ Staff contact: _____
 Signature: _____ Phone: _____ Date: _____



Oregon

John A. Kitzhaber, M.D., Governor

Department of Fish and Wildlife

Fish Division

4034 Fairview Industrial Drive SE

Salem, OR 97302

503-947-6200

Fax: 503-947-6202

www.dfw.state.or.us

January 22nd, 2014

Greg Fries
EGM, LLC
PO Box 429
Dundee, OR 97115

Corbey Boatwright
Boatwright Engineering, Inc
2613 12th Street SE
Salem, OR 97302



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WATER RESOURCES DEPT
SALEM, OREGON

**Re: Fish Passage Exemption at Unnamed Tributary of Neil Creek; Exemption Application
E-02-0028**

Dear Mr. Fries and Mr. Boatwright,

The application (# E-02-0028; cover sheet attached) for a fish passage exemption request for an existing dam on an unnamed tributary to Neil Creek located near South Salem, has been approved by the Oregon Department of Fish and Wildlife (ODFW) pursuant to ORS 509.585(9)(a)(C) and OAR 635-412-0025(4)(c) and (10)(aA). Therefore, you do not have to provide fish passage at this location on the unnamed tributary. An appreciable benefit analysis performed by ODFW Mid Willamette District staff showed that providing fish passage at this site would not result in an appreciable benefit to native migratory fish. Please note that this exemption is valid until the next triggering event occurs (construction, abandonment, fundamental change in permit status). Also, if conditions change in the future to the extent that providing passage at this site results in an appreciable benefit to native migratory fish, this exemption can be revoked (ORS 509.585(9)(a)(C)(b) and (OAR 635-412-0025(6)), and fish passage will need to be addressed.

Please keep a copy of this fish passage exemption approval letter with the attachment as a record of the fish exemption approval. Please contact me at 503-947-6256 if you have any questions regarding this fish passage exemption approval letter.

Sincerely,

Ken Loffink
Assistant Fish Passage Coordinator

cc: Greg Apke, ODFW
Alex Farrand, ODFW

Elise Kelley, ODFW
Project File: E-02-0028

S-87966



OREGON DEPARTMENT OF FISH AND WILDLIFE

Fish Passage EXEMPTION Application

- Use this form if a waiver has already been granted for the artificial obstruction for which an Exemption is being requested, fish passage mitigation has already been provided for the artificial obstruction, or if there would be no appreciable benefit for native migratory fish if passage were provided at the artificial obstruction.
• Use the "Fish Passage WAIVER Application" if providing fish passage at the artificial obstruction would benefit native migratory fish.
• If you unlock and re-lock this Form, information already entered may be lost in certain versions of MS Word.

APPLICANT INFORMATION

The Applicant must be the owner or operator of the artificial obstruction for which an Exemption is sought.

ORGANIZATION/APPLICANT: EGM, LLC
CONTACT: Greg Fries TITLE: Manager
ADDRESS: PO Box 429
CITY: Dundee STATE: OR ZIP: 97115
PHONE: 503-538-3199
FAX:
E-MAIL ADDRESS: greg@duckpondcellars.com
SIGNATURE: DATE:

OWNER (if different than Applicant):
CONTACT: TITLE:
ADDRESS:
CITY: STATE: ZIP:
PHONE:
FAX:
E-MAIL ADDRESS:
SIGNATURE: DATE:
Signature indicates that you understand and do not dispute this request.

APPLICATION COMPLETED BY (if different than Applicant): Corbey Boatwright, PE, LS, CWRE
TITLE: Owner
ORGANIZATION: Boatwright Engineering, Inc
ADDRESS: 2613 12th Street SE
CITY: Salem STATE: OR ZIP: 97142
PHONE: 503-363-9225
FAX: 503-363-1051
E-MAIL ADDRESS: corbey@boatwrightengr.com
SIGNATURE: DATE: WATER RESOURCES DEPT SALEM, OREGON

RECEIVED
MAR 13 2014

To Be Completed by ODFW Fish Passage Coordinator
APPLICATION #: E-02-0028 DATE RECEIVED: 5/9/13
FILE NAME: Duck Pond Exemption - Unnamed Trib. of Neal Creek
APPROVED [X] DENIED [] SIGNATURE: [Signature] DATE: 1/22/14
TITLE: Assistant Fish Passage Coordinator

jeanne@boatwrightengr.com

From: "Alex Farrand" <alex.farrand@state.or.us>
Date: Friday, January 31, 2014 12:04 PM
To: "Jeanne Boatwright" <jeanne@boatwrightengr.com>
Cc: "Elise X Kelley" <elise.x.kelley@state.or.us>
Subject: RE: Questions about another Exemption

Jeanne,

Since this appears to be close to the source spring (according to your map) and our determination has been that there is no fish habitat upstream of Jackson Hill Rd, fish passage does not need to be considered in the design of the pond. We will most likely need to formally review it at some point in the water right application process, but this determination can be stated on our review, and then there will be no further issues.

Alex Farrand

Fish Biologist - ODFW
 South Willamette District Office
 7118 NE Vandenberg Ave.
 Corvallis, OR 97330
 Ph: 541-757-5239
 fax: 541-757-4252

From: jeanne@boatwrightengr.com [mailto:jeanne@boatwrightengr.com]
Sent: Wednesday, January 29, 2014 3:18 PM
To: Alex Farrand
Subject: Questions about another Exemption

Alex,

I have attached a copy of a Google-earth map. It shows the location of the EGM, LLC reservoir that just received the fish passage exemption. Another client, Meduri Farms, has come to us and asked about constructing an on-channel reservoir upstream about 1/4 mile from the tail of the EGM reservoir. What will they need to do, in light of the exemption being granted downstream? Any info you can provide would be helpful.

Jeanne

Boatwright Engineering, Inc.
 2613 12th Street SE
 Salem, Oregon 97302
 ph: 503-363-9225
 FAX: 503-363-1051

RECEIVED

MAR 13 2014

WATER RESOURCES DEPT
 SALEM, OREGON

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1/31/2014