

CLARK Gerry E

From: CLARK Gerry E
Sent: Friday, November 21, 2014 2:19 PM
To: MILLER June U
Subject: RE: cert 72075, this is HB 2153 pond.
Attachments: Certificate 72075 Information.pdf; Certificate 72075 additional information.pdf

June,

I have attached copies of the documents that we discussed earlier today.

Gerry

Gerry Clark
Water Right Services Division
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301

Phone: 503-986-0811

From: MILLER June U
Sent: Friday, November 21, 2014 11:27 AM
To: CLARK Gerry E
Subject: cert 72075, this is HB 2153 pond.

Could you please have someone look in the file for the above certificate and let me know what is there, maybe scan documents to me. I do not need the cert document or the map, unless we have a better map than the topo map, which does not show the location of the pond.

Please have whoever gets to look this up call me before they send anything, so we can eliminate things that I don't need. In particular, I am looking for a letter we sent the applicant.

Thanks so much.

June Miller
Assistant NCR WM
OWRD
116 SE Dorion
Pendleton, OR 97801
541-278-5456

RECEIVED

NOV 28 1997

WATER RESOURCES DEPT.
SALEM, OREGON

R 80744

INTEROFFICE MEMO

**WATERMASTER DISTRICT 5
NORTH CENTRAL REGION
WATER RESOURCES DEPARTMENT**

TO: DWIGHT FRENCH

NOVEMBER 26, 1997

FROM: TONY JUSTUS ~~✍~~

SUBJECT: Certificate 72075 (HB-2153)

Carl Scheeler contacted me regarding my request for a flowmeter to account for the amount of water used from his pond for irrigation. Carl feels the cost of a flowmeter, including maintenance, is too high for the use he makes of the water. Carl claims to be irrigating only 1/4 acre of lawn near his home from the pond.

My concern is the certificate does not restrict the irrigation to any specific acreage or acreage limit. The pond holds 2 a.f. The flows feeding the pond occur year round and are sufficient to fill the pond several times over during the year. As the certificate now stands, I feel there is sufficient possibility for over use of water allowed by the certificate causing injury to others. However, if the live stream flow is bypassed during the times of the year the receiving stream, Mckay Creek, is short of water and if the irrigation is limited to a specific acreage and that acreage is 1/4 acre or less, I will be comfortable with removing the mitigation requirement of a flowmeter. It is not likely there is a need to use more than 2 acre feet on a 1/4 acre lawn. Please call if there are additional concerns or questions.

RECEIVED

DEC 11 1997

WATER RESOURCES DEPT.
SALEM, OREGON

December 4, 1997

Water Resources Department
Commerce Building
158 12th Street NE
Salem, OR 97301-0210

Re: File # R80744

Dear Sir or Madam:

I am writing in response to your notice dated November 12, 1997 regarding injury allegations related to my reservoir. I have discussed this issue with Mr. Justus and I am aware of his specific concerns regarding use of the stored water and possible future injuries to downstream users.

As stated in my original reservoir application, the only proposed consumptive use for the stored water is for fire control, including maintenance of a small lawn area around my home for a firebreak. The existing underground sprinkler system serves this area of between ¼ and ½ acre in size and draws water from the pond. This system predates my ownership of the property and alteration of the system to draw from my well would be cost prohibitive. I would have to apply between four and 8-acre feet of water in order to use the full 2 acre feet of stored water. Such use would certainly constitute an uncontrollable waste of resources.

Mitigating this unlikely circumstance by requiring a metering device costing many hundreds of dollars seems unnecessary and extreme. I am therefore requesting that the issue be addressed through some other measure such as a modification of my certificate to limit consumptive use of the stored water during the potentially injurious period (June 1-November 1) to the maintenance of this limited area of lawn. I believe this solution would be acceptable to Mr. Justus and meet the intent of the regulations.

If you have further questions or need additional information, please feel free to call me at (541) 278-5298 during the days or (541) 276-2949 in the evenings. Thank you for considering this request. I look forward to your response.

Sincerely,



Carl A. Scheeler

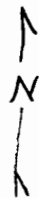
C: Tony Justus

.....

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DEC 29 1994

WATER
SALEM, OREGON



CREEK

TAX LOT
301

TAX LOT 800

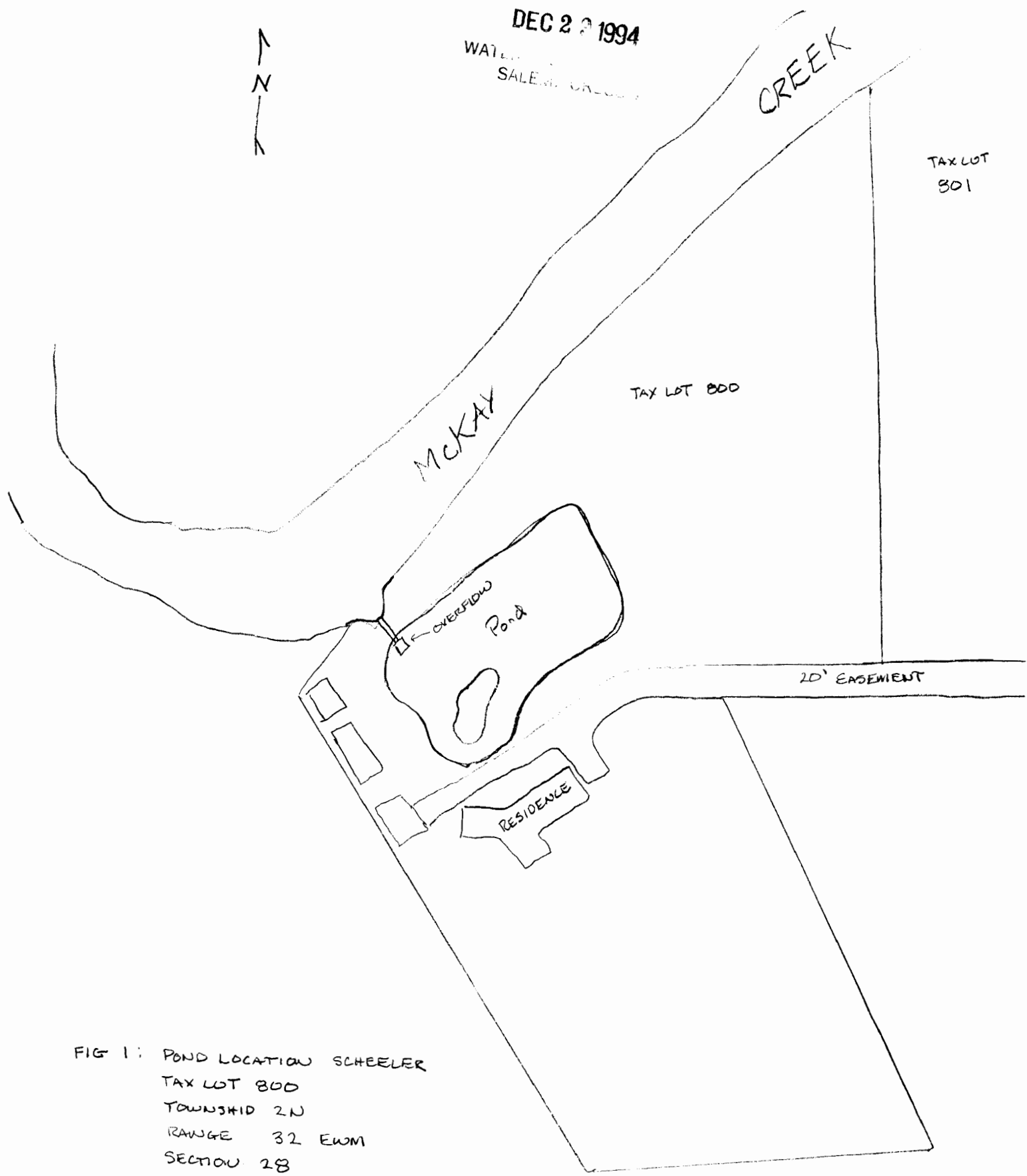
MCKAY

OVERFLOW
Pond

RESIDENCE

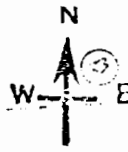
20' EASEMENT

FIG 1: POND LOCATION SCHEELER
TAX LOT 800
TOWNSHIP 2N
RANGE 32 EWM
SECTION 28



C&Z SH

See Map 2N 32 28



THIS MAP IS FURNISHED AS A
CONVENIENCE BY:
PIONEER TITLE COMPANY

THIS MAP IS NOT A SURVEY AND DOES NOT SHOW
THE LOCATION OF ANY IMPROVEMENTS. IT IS PROVIDED
FOR IDENTIFICATION OF LANDS ONLY, AND THIS
COMPANY ACCEPTS NO LIABILITY FOR THE ACCURACY
OF BOUNDARY LINES, EASEMENTS, ROADS OR OTHER
MATTERS SHOWN THEREON.

HIGHWAY NO. 101
NO. 101
DEC 29 1994
SALEM, OREGON

See Map 2N 32 27

MAP NO. 25

CREEK

16-20

TRACT I

MCKAY

16-11

POND

TRACT II

Easement

16-2

1/16 Cor

See Map 2N 32 28

FIG 2: TAXLOT MAP SCHEELER RESIDENCE

(2)

APPLICANT NAME
Carl A. Scheeler

APPLICANT NAME

RESERVOIR NAME/ NUMBER	TOWN SHIP	RANGE	SECTION	COUNTY	SOURCE	MAXIMUM HEIGHT OF DAM	MAXIMUM WATER DEPTH	STORAGE CAPACITY (STATE UNITS)	OUTLET PIPE (LOCATION, DESCRIPTION, SIZE)
1	2 N	32 East	28	UMATILLA	SPRINGS	4'	5'	2 ACRE FT	NW CORNER OF POND 19" CULVERT OVERFLOW

RECEIVED
DEC 2 9 1994
WATER RESOURCES
SALEM, OREGON

STATE OF OREGON
COUNTY OF Umatilla

CERTIFICATE OF WATER RIGHT (HB - 2153)

THIS CERTIFICATE ISSUED TO

CARL A SCHEELER
RT 2 BOX 80B
PENDLETON, OR 97801

confirms the right to store the waters of
A RESERVOIR AND STORE WATERS OF SPRINGS, TRIBUTARIES OF MCKAY CREEK
for IRRIGATION, FISH, WILDLIFE, RECREATION AND FIRE
PROTECTION.

The right to store and use these waters was perfected under Reservoir Application R-80744.
The date of priority is January 1, 1993. The amount of water entitled to be stored and
used each year under this right is not more than 2.0 ACRE-FEET

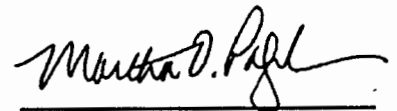
Located as follows:

SE 1/4 NE 1/4 SECTION 28, TOWNSHIP 2 NORTH, RANGE 32 EAST WM.

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, with
a minimum diameter of 8", or the provision of other means to evacuate water when determined necessary
for public safety or to satisfy prior downstream rights as determined by the Water Resources Director.

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

WITNESS the signature of the Water Resources Director, affixed **FEBRUARY 27, 1996**.



Martha O. Pagel

Recorded in State Record of Water Right Certificates numbered 72075

Mailing List for Commenter Letter

File #: R 80744

Letter & copies of rebuttal, comments, certificate or notice, and map sent to:

1. Watermaster: Tony Suskus

2. ODFW District Bio: _____

3. Waterwatch

4. Other: _____

Copies Mailed
By: _____ (SUPPORT STAFF)
on: <u>12-19-97</u> (DATE)

(Note: Materials mailed only to those individuals/parties that are checked off above.)

Copy of Letter to:

1. WRD File # R 80744



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

December 19, 1997

Tony Justus
Watermaster District 5

Dear Tony:

You submitted comments on ponds filed under ORS 537.407 (HB 2153) or under ORS 537.405 (HB 2376). These laws provided an opportunity for the Oregon Department of Fish and Wildlife to comment on how a specific reservoir(s) will cause significant detrimental impacts to an existing fishery resource and allowed members of the public to comment on how the reservoir(s) will cause an injury to an existing water right(s). Based upon review of your comments, the Department prepared notices of proposed mitigation conditions. A notice was mailed to each of the registrants along with a copy of your comments. The registrants were provided an opportunity to submit additional information to the Department explaining how your comments were in error.

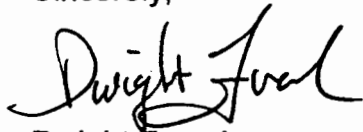
The Department received the attached rebuttals to your comments. If you do not agree with a rebuttal and believe that your comments are still valid, please send a written response to the Department identifying why you disagree with the rebuttal and affirming your position. However, if you agree with the rebuttal you need not respond, unless you determine that it is necessary. In order for us to issue a mitigation order within 180 days of receiving your comments, we need to have your response(s) received by the Department no later than January 7, 1998. If you need an additional day or two to look further at a couple of ponds, please send a request, attention to the appropriate file number.

If you choose to respond, the Department will determine whether a Mitigation Order is required based upon your response and the rebuttal submitted by the registrant. The Mitigation Order, if required, will identify any conditions that must be met in order to protect the fishery resource and/or existing water rights and for the reservoir to be authorized.

If no response to a rebuttal is received, the Department will conclude that you agree with the rebuttal and that a Mitigation Order is not necessary.

If you have any questions, please me at (503) 378-8455, extension 268, or toll free within Oregon at 1 (800) 624-3199.

Sincerely,

A handwritten signature in black ink that reads "Dwight French". The signature is written in a cursive style with a large, stylized 'D' and 'F'.

Dwight French
Water Rights Manager

Enclosures: Your Comments
Proposed Mitigation Conditions
Rebuttal from Registrant
Copy of Notice of Exempt Pond or Certificate and Map



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

November 20, 1997

CARL A SCHEELER
RT 2 BOX 80B
PENDLETON, OR 97801

REFERENCE: FILE#: R 80744

Dear Mr. Scheeler,

I want to apologize for any confusion which may have resulted from the letter we sent to you about a week ago. I hope this follow-up letter will better explain our "ponds" program, and give you a clearer picture of what is happening with your pond.

In 1995, the legislature adopted a new law intended to help address a legal problem with many existing ponds throughout the state. These ponds had been developed over the years by land owners who were not aware that water rights may have been required. In order to make sure that all the ponds were "legal" the legislature approved HB 2376 in 1995, which set out a process for filing a notice of the pond with our department. Under the law, such notices could be filed until January 31, 1997. Our job was then to determine whether any of the ponds resulted in injury to other existing water rights, or created a detrimental impact on fish.

This simplified review process was intended to make it easier for the owners of existing ponds to receive final water right certificates. The 1995 law also required that we provide a comment period, which ended on August 1, 1997. During this time, we were required to accept comments as to whether a pond may in fact be resulting in injury to other water rights or creating a detrimental impact to fish. After the close of that comment period, our department was given 180 days in which to evaluate the comments, give notice to the pond owners, and identify whether mitigation measures would be required to alleviate the injury to other water rights or impacts to fish.

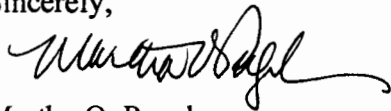
This is why you received a letter from us last week. For more than 16,000 ponds on which notices were filed under HB 2376, about 960 comments were received. From those comments, we determined that about half would appear to require mitigation measures. A total of 450 letters were sent out last week to pond owners like you.

The purpose of these letters was to advise you that the comments had been received, and to provide you with an opportunity to get back to us with any information you might have to show that the mitigation should not be required — either because you disagree with the comment that we received, or because you have a better idea of how to remedy the situation.

The letter you received included a copy of the comments we received about your pond, along with our proposed mitigation plan. We need to hear from you by December 10, 1997, as to whether you disagree with the underlying comment or with our proposed mitigation. We do encourage you to get back to us by the deadline, and we will make every effort to accommodate your suggestions.

Again, I offer my sincere apology for any confusion or irritation caused by our earlier letter. I hope this letter provides additional background information that will help you respond to the questions about your pond. If you have questions about this process, please let us know. I urge you to call our Water Rights Information staff at 1-800-624-3199 extension 499. In some circumstances they may also involve your local Watermaster for additional help. We will try our best to work through this with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Martha O. Pagel".

Martha O. Pagel
Director

m:955



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

November 12, 1997

FILE#: R 80744

CARL A SCHEELER
RT 2 BOX 80B
PENDLETON, OR 97801

Dear Reservoir Owner,

You submitted a reservoir application under section 4, chapter 595, Oregon Laws 1993 (House Bill 2153) and were issued a certificate as provided for in ORS 537.407 (HB 2376). HB 2376 also provided an opportunity for the Oregon Department of Fish and Wildlife to comment on how a specific reservoir(s) caused injury to an existing fishery resource. In addition the same law allowed members of the public to comment on how the storage or use of the water caused an injury to an existing water right. This comment period ended on August 1, 1997.

The Department received the attached injury allegation(s) related to your reservoir(s), as provided for in ORS 537.407. If you do not agree with the allegation of injury, please submit detailed information to the Department explaining why or how the allegation is in error. Your response must be postmarked no later than *December 10, 1997*.

The Department will review any submission you may make and determine if a Mitigation Order is required. If the Department finds that the allegation of injury is factual and verifiable, the Department will issue a Mitigation Order requiring that the attached conditions, or other conditions that prove to be necessary after reviewing any information that is submitted, be placed on your water right certificate.

If you receive a Mitigation Order, you may request a Contested Case Hearing to contest the findings of the Department and the allegation of injury. Information on how to request a Contested Case Hearing will be provided in the Mitigation Order, if issued.

If you have any questions, please call the Water Rights Information Group at (503) 378-3739 extension. 499.

Water Right Section

MITIGATION CONDITIONS

Cert # 72075
App # R-80744
Date 11-12-97
LKS

Oregon Department of Fish and Wildlife Conditions

- _____ In accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate bypass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream passage for fish. (SMBS)
- _____ Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion. (SMSS)
- _____ The reservoir owner is required to by-pass flows from _____ through _____ . (BPC)

Water Right Related Conditions

- _____ The pond may be filled one time only per year. No diversion of water to storage can occur during times all water rights are not met on the John Day river System. (KR1)
- _____ If required by the Watermaster, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Watermaster (Department). (KR2)
- _____ Live stream flow must be passed when required to satisfy existing water rights. In order to substantiate live flow is being passed, measuring devices may be required. (J)
- _____ Live flow must be by-passed all year. (BSD)
- _____ Any secondary use of stored water is limited each year to the capacity of the reservoir. (BSD2)
- _____ The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

_____ The following provision for a measuring device shall be effective:

_____ the pump system shall include an access port for measuring the water level;

_____ the pump system shall include an in-line flow meter or other suitable device for measuring the water to which the user is entitled;

_____ the type and plans of the measuring device be approved by the Watermaster before the beginning of construction work and that the measuring device be installed under the general supervision of said Watermaster.

✓ _____ A totalizing flow meter must be installed at each diversion point. The totalizing flow meter must be installed and maintained as identified in OAR 690-507-645.

_____ A staff gage that measures the entire range and stage between full reservoir level 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, 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.

✓ _____ Live stream flow must be by-passed between June 1 and Nov 1.

_____ The period of use has been limited to _____ through _____.

RECEIVED

JUL 14 1997

WATER RESOURCES DEPT.
SALEM, OREGON

**WATERMASTER COMMENTS FOR
HB 2153 CERTIFICATES
HB 2376 NOTICES**

Watermaster Name Tony Justus
Date 7/9/97

Please attach copy of HB 2153 Certificate. ⁷²⁰⁷⁵
HB 2376 Notice of Exempt Reservoir Application # _____

**Attach additional sheets if necessary.

Please specify which reservoir(s)/ponds(s) the comments pertain to:
Describe by name, number or Township Range Section and 1/4 1/4 if necessary. If comments refer to all reservoir listed please specify. Please provide enough information to accurately describe which reservoir the comment(s) pertains to.

Does the reservoir/pond cause injury to an existing water right? Specify which water right and the evidence which supports that finding. Please describe for each reservoir listed above. If the water right and the supporting evidence are the same please indicate.

Pond stores water that contributes to the flow of
McKay Creek. McKay Creek regulated annually because
there is insufficient flow to honor all existing water
rights. McKay Creek contributes to the flow of the Umatilla
River which is also regulated annually. See McKay + Umatilla
River Water Management plan approved by Water
Resources Commission in July 1991.

Injury to Cuts - 2549, 53297, 55408, 2631, 55330
2549, 53297, 5100, 53298
55607 & others (see list.)
Also all Umatilla River WR's below mouth of
McKay Creek.

*****SEE BACK OF PAGE FOR LIST OF CONDITIONS TO MITIGATE INJURY*****

Which of the following conditions are required to mitigate the described injury?

(1)

The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

(2)

The following provision for a measuring device shall be effective:

- (a) the pump system shall include an access port for measuring the water level;
- (b) the pump system shall include an in-line flow meter or other suitable device for measuring the water to which the user is entitled;
- (c) the type and plans of the measuring device be approved by the Watermaster before the beginning of construction work and that the measuring device be installed under the general supervision of said Watermaster.

(3)

A totalizing flow meter must be installed at each diversion point. The totalizing flow meter must be installed and maintained as identified in OAR 690-507-645.

(4)

A staff gage that measures the entire range and stage between full reservoir level 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, 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.

*Please specify whether the installation of the weir(s) will provide no public benefit.

(5)

Five stream flow must be by-passed between June 1 and Nov 1.

(6)

The period of use has been limited to _____ through _____.

Other (Please specify below)

MCKAY WATER RIGHTS OF RECORD
BELOW MCKAY RESERVOIR

Priority Date	Name	Acres	Quantity of Water	Cumulative CFS
1880	Wells	60.0	.75	.75
1891	Olson	12.0	.15	.90
1892	C# 2549	10.0	.13	1.03
1893	Miller	33.0	.41	1.44
1894	C# 53297	44.96	.56	2.00
1894	C# 55608	13.0	.16	2.16
1894	C# 2631	97.4	1.22	3.38
1904	C# 55330	50.0	.63	4.01
1906	C# 2549	30.0	.38	4.39
1907	C# 53297	50.7	.63	5.02
05/03/1911	Pearson	8.5	.11	5.13
01/03/1912	Marion Jack Ditch	1 181.09	2.26	7.39
08/16/1923	C# 5100	24.0	.30	7.69
07/14/1936	Miller	1.9	.025	7.715
08/14/1936	Pearson	8.0	.10	7.815
04/13/1940	C# 53298	24.85	.47	8.285
03/19/1953	Olson	4.4	.06	8.345
01/04/1954	Wyland	19.7	.25	8.595
03/29/1955	Wyland	(P) .4 (S) 8.4	.11	8.705
07/18/1962	Olson	6.6	.08	8.785
05/29/1973	McKenna	11.8	.15	8.935
11/03/1977	C# 55607	2.2	.03	8.965

(P) Primary

(S) Supplemental

C# Certificate number (many owners)

RECEIVED

Oregon

January 31, 1996

FEB 08 1996
WATER RESOURCES DEPT.,
SALEM, OREGON

DEPARTMENT OF
ENVIRONMENTAL
QUALITY

Dwight French, Manager
Water Rights Division
Water Resources Department
158 12th Street, Northeast
Salem, Oregon 97310

Re: Response to Technical Evaluation of Water Right Applications
for the Umatilla River

File: R80744
Source: McCay Creek
Flow: 2.0 A
Use: irrigation

Dear Mr. French:

The Department has completed its review of the above referenced Technical Reviews of water rights applications. The drainage basin in which these applications are located has been identified as water quality limited by the Department. The estimated low flow normally occurs during the summer period of May 1st to October 31st of each year. The Department's analysis of water quality indicates that during periods of low flow, water quality problems exist.

This application proposes additional out of stream use of water which if granted would reduce available instream flows during the seasonal low flow period, thus increasing the likelihood of already identified water quality problems in this drainage basin. The Department recommends limiting the pond or reservoir water rights to high flow if it is available, and requests that this be verified with a meter when 2.0 acre feet or more are impounded. Large reservoirs covering 5 or more acres will need a DEQ stormwater permit to control runoff.

The Department requests that for pollution prevention a farm management plan be developed to address water quality issues, including: 1) possible herbicide and pesticide use in the vicinity of the pond or reservoir; 2) an erosion (sediment) plan with buffer strips; 3) a nutrient plan to prevent nitrate runoff into surface and groundwater; 4) potential flooding of the pond or reservoir if located in the 100 year floodplain with subsequent contaminant release; 5) riparian restoration and 6) a way to keep stock out of the stream.



811 SW Sixth Avenue
Portland, OR 97204-1390
(503) 229-5696
TDD (503) 229-6993

DEQ-1

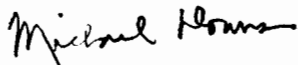


Page 2

If the pond, reservoir or diversion is designed for stock watering, operators are encouraged to establish off channel watering sites. The standard .005 Cfs or 3.62 AF per head is to be applied in requesting water. Metering for stock water is not needed. Any system established in freeze zones or other situations where water may have to be left running should provide a closed loop return system, which would allow any overflow water to return to the stream. A non point source pollution control management plan needs to be developed or the area fenced and the riparian zone replanted. In this case with these stipulations the Department would support WRD permits for year round flow in a TMDL basin.

If you have questions or wish to discuss this issue further, please feel free to contact Barbara Priest (503-229-5945) of my staff.

Sincerely,



Michael Downs
Administrator
Water Quality Division

MD:bjp:crw
SA\WC13\WC13962.doc
cc: Robert Adelman, NRCS
Kimberly Priestly, Waterwatch

RECEIVED

FEB 08 1996

**WATER RESOURCES DEPT.
SALEM, OREGON**

Application No.

R-80744

RECEIVED

4B-2153

DEC 29 1994

WATER RESOURCES
SALEM, OREGON

State of Oregon

WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Carl A. Scheeler

(Please print or type - use dark ink)

Mailing Address: RT 2 Box 80-B

Pendleton

OR

97801

276-2949

City

State

Zip

Daytime Phone No.

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

1. SOURCE OF WATER for the proposed use: Springs, a tributary of McKay Creek.

If not in channel of a stream, state how it is to be filled: Springs

2. THE DAM: The maximum height of the structure will be 4' feet above stream bed or ground surface at the centerline.

The dam will be (check one) earthfill, concrete, flashboard, other.

If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: Northwest corner of pond. 28" x 28" x 4' concrete overflow box w/ 19' CULVERT outlet

NOTE: All dams across natural stream channels must be provided with an outlet conduit, minimum diameter of 8", or be of such capacity and location as to pass the normal flow of the stream at any time.

3. THE USE(s) of the impounded water will be: WILDLIFE/Fish, Recreation, Wetland enhancement, Fire Protection, Lawn watering

4. **THE AMOUNT OF WATER** to be stored is: < 2 af acre-feet.
The area submerged by the reservoir, when filled, will be .41 acres,
and the maximum depth of water will be 5 feet.

5. **SPILLWAY DESCRIPTION** (location and dimensions). State whether over or around the dam. Northwest corner of pond. Natural stream bank of McKay Creek.

6. **PROJECT SCHEDULE:** (List month and year)
Proposed date construction work will begin N/A Preexisting
Proposed date construction work will be completed _____
Proposed date water use will be completed _____

NOTE: Prior to issuance of a permit, it will be necessary to submit a map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the property on which the water is to be used. The legal description may be copied from your deed, title insurance policy, or land sales contract.

7. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):
 Applicant _____ CWRE _____ Other (Identify in REMARKS section)

b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):
 Applicant _____ CWRE _____ Other (Identify in REMARKS section)

8. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? Yes. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

REMARKS: I am making this application under HB 2153
for a pre-existing pond. Neighbors who have lived here
since the 1950's (Bob ~~BYER~~) indicated that this pond predates the
McKay Dam. I believe it is a natural reservoir that has been
modified over the years. I believe this pond meets all the
requirements for exemption under HB 2107. This pond is
identified on the National Wetland Inventory (1991) on a USGS
quad. map base (McKay Reservoir, OR, (1971)). See Attachment.

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge:

Carl A. Schuck
Signature

12/17/94
Date

Signature

Date

RECEIVED
DEC 20 1994
WATER RESOURCES DIVISION
SALEM, OREGON

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

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

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

_____, 19____.

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

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at Salem
Oregon, on the 29 day of December, 19 94, at 8 o'clock, A M.

Priority Date 1-1-93

APPLICATION NO: R-80744

January 12, 1996

CARL A SCHEELER

RT 2 BOX 80B
PENDLETON, OR 97801

REFERENCE: File # R-80744;

We have received your application(s) for a water use permit along with your supporting data, documentation, and fees. A receipt is enclosed here unless you were previously issued one. Your application has been assigned the above referenced file number. Please refer to this number whenever you contact us about your application.

Your application will be considered under House Bill 2153 enacted by the 1993 Oregon Legislature. You may continue the storage of water while a decision is pending on your application.

After an application has been accepted for filing, public notification of the application is made, followed by a mandatory 30-day comment period. Thereafter, applications can be considered for processing as time allows.

At present the Water Resources Department has a backlog of several thousand applications for water use permits which has delayed our application processing time. In general, the Department works through Oregon's 18 river basins on a rotating schedule, processing applications in the order in which they have been received.

The processing of an application does not guarantee that a water right permit will be issued. Each application must undergo specialized analysis called a technical review and a public interest review. Until your application is reviewed, it is not possible to determine whether your particular proposed water use will be recommended for a permit.

Technical Reviews are processed in accordance with Oregon Administrative Rules. The Water Resources Commission is considering the adoption of rules to protect stream flows for fish species. This action is being contemplated in response to current and future Endangered Species Act fish listings, including many runs of salmon, steelhead and resident fish throughout the state.



REFERENCE: File(s) - R-80744

The proposed rules, if adopted, could limit the issuance of new water right permits in certain areas of the state. If and when the Commission adopts these rules, new criteria or restrictions may be imposed on water use applications received after:

July 17, 1992, for use of water in the Upper Columbia/Snake Basin (above Bonneville Dam), including the mainstem Columbia and Snake Rivers and the Hood, Deschutes, John Day, Umatilla, Grande Ronde, Powder, Malheur and Owyhee Basins;

April 8, 1994, for use of water in the North Coast, Mid Coast, South Coast, Rogue and Umpqua Basins and the Clackamas Subbasin of the Willamette Basin; and

June 3, 1994, for use of water in all Oregon basins.

When the report on the technical review is completed and sent to you, a 60-day objection period begins during which you, the applicant, or anyone who has expressed an interest in your proposed water use may communicate to us their disagreement with what we have said in our report on your application. After the 60-day objection period, the Department conducts the public interest review and considers any objections which have been made.

After any objections have been considered, there may follow time to allow parties to resolve conflicts over the proposed water use. In addition, a 30-day protest period may be required. Lastly, it may be necessary to schedule a hearing or send the application to the Water Resources Commission for their review.

If your application is recommended for approval and a permit is issued, the use allowed by the permit will be subject to the Basin Program Rules of the Water Resources Commission, instream flow requirements, the demands of prior right holders and other conditions to conform the water use to particular standards.

Please contact the Water Rights Information Group (WRIG) if you have any questions. You may write to us at 158 12th ST NE, Salem, Oregon 97310 or you may call 378-3739 in Salem or toll free from within the state 1-800-624-3199.

Sincerely,



Ms. Anita M. Mc Loud
Water Rights Specialist
Water Rights/Adjudication Division

cc: CWRE

RECEIVED

DEC 28 1994

WATER RESOURCES DEPT.
SALEM, OREGON

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached request for land use information is applying for a water right. The Water Resources Department (WRD) requires its applicants to obtain land use information to be sure water rights do not result in land uses that would violate your comprehensive plan.

WRD will not accept applications which are not accompanied by this completed land use form or the signed, dated receipt stub detached from the bottom of the land use information form.

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

Your attention to this request for information is greatly appreciated by both the applicant and WRD. If you have questions concerning the form, please contact WRD at 378-3739.



Description of Water Use

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: Carl A. Scheeler
 Address: Rt 2 Box 80-B
Pendleton OR 97801
 Phone: 276-2949

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- Irrigation (crop type, golf course, nursery or greenhouse): Lawns < 1/2 acre
- Livestock (type of livestock, feedlot, slaughterhouse): _____
- Residential (# units, single or multi-family, # lots if partition or subdivision): _____
- Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- Institutional (i.e., school, library, etc.): _____
- Mining (aggregate, metal, open pit, placer, etc.): _____
- Recreation (park, campsite, pond, etc.) _____
- Fish and Wildlife (pond, hatchery, etc.) _____
- Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- Other (Name and list key characteristics): FIRE PROTECTION

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
<input type="checkbox"/> Surface Water Name sources <u>Spring</u>	_____ Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
<input checked="" type="checkbox"/> Reservoir or pond	
<input type="checkbox"/> Ground Water	

**Land Use Information Form: Permits, Hydroelectric Licenses,
Water Uses in Addition to Classified Uses**

RECEIVED
DEC 20 1994
WATER
SALMON

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water application. **DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.**

Applicant's Name: Carl A. Scheeler
Address: Rt 2 Box 80-B
City: Pendleton State: OR Zip: 97801 Day Phone: 276-2949

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use, or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

(CHECK ALL THAT APPLY)

TAX LOT LOCAL ID #	PLAN DESIGNATION/ZONING (e.g. Rural Residential/RR-5)	WATER DIVERTED	WATER CONVEYED	WATER USE
2N3E28AD T 800	Rural Residential - 2ac. min			
	lot size			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.
Umatilla.

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

For Local Government Use Only

Application No. R-80747
Permit No.

Local planning officials are to complete the remainder of this form. If it cannot be completed while the applicant waits, sign and detach the receipt as instructed below. You will receive notice when the applicant's water right request is filed with the Water Resources Department (WRD). You will have 30 days from the notice date to return this completed land use form to WRD. If no land use information is received from you within that period, WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan.

- a) Check the appropriate box below and provide requested information.
- Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan.
Cite applicable ordinance section(s); 3.092.1. Go to section b) on reverse side.
 - Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table on the reverse of this form. **Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus accompanying findings is sufficient.)**

Receipt for Request for Land Use Information

WRD Applicant Name: _____

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government cannot provide the above requested land use information while the applicant waits.

City or County: _____
Staff Contact: _____ Phone: _____
Signature: _____ Date of Information Request: _____

(for Local Use Continued)

(CHECK THE BOX THAT APPLIES)

Type of Land Use Approval Needed (e.g. plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Already Obtained	Already Denied	Being Pursued Satisfactorily

b) Please provide printed name and written signature.

Name: Bob Perry Date: 7-17-95

Title: Senior Planner Phone: 278-6251

Signature: Bob Perry

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

Additional Comments:

Approval based on existing ^{and future} wildlife and irrigation use of ponds.

AUG - 4 1935

CLERMONT, OREGON

ADDITIONAL INFORMATION SHEET

Please provide the following:

Reference File # 1-1138

Additional fees in the amount of \$ _____ .00
A copy of the fee schedule is enclosed.

Item (1) on the application concerning the source of the water was not completed. Please complete the statement below.
Source of Water for the proposed use: _____,
a tributary of _____.
If not in channel of a stream, state how it is to be filled:

Item (2) on the application concerning The Dam was not completed. Please complete the statement below.
The maximum height of the structure will be _____ feet above stream bed or ground surface at centerline.
The dam will be (check one) _____ earthfill, _____ concrete, _____ flashboard, _____ other. If "other" give description:

_____ Give the location, description, and dimensions of the outlet conduit:

Item (3) on the application concerning The Use was not completed. Please complete the statement below.
The use(s) of the impounded water will be: _____

Item (4) on the application concerning The Amount of Water to be stored was not completed. Please complete the statement below.
The Amount of Water to be stored is: _____ acre-feet.
The area submerged by the reservoir, when filled, will be _____ acres.
and the maximum depth of the water will be _____ feet.

- A Quick Calculation For Reservoir Volumes:

- Volume= (length X width) (maximum depth) (0.4)
(cu/ft) (surface area)
- To determine Acre Feet, divide above number by 43,560 which is the number of cubic feet in one acre foot.
(1 acre, 1 foot deep in water)
- The "factor" of 0.4 is to be used in all cases where sufficient information is not available for use in determining a more precise reservoir volume.

- Item (8) on the application was not completed. Please complete the statement below.
Are the lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership?_____. If not, list below the names and mailing addresses of the legal owners of all property involved in the proposed development.
-
-
-

- A map showing the place where water is to be used and the place where the water will be diverted. The map must show the township and range, and section corners near the property applied for.

- Evidence that the reservoir was constructed prior to January 1, 1993. Construction receipts, dated aerial photos, or a notarized affidavit by the landowner or other knowledgeable person will meet this requirement.

Land Use Information Form [redacted] by a [redacted] (a form is enclosed).

- Enclosed you will find the correct form to complete your application.

- There can only be a maximum of 10 reservoirs per application. The excess reservoirs must be applied for on another application. Please complete the enclosed application.
(ORS 595 Sec. 4(2)(a))

- A separate application must be submitted for each reservoir that stores 9.2 acre feet or more of water or that has a dam 10 feet or more in height. (ORS 595 Sec. 4(3)(a)) Each application will require a fee. A copy of the fee schedule is enclosed.

- An oath that the information contained in the application and in this Additional Information Sheet is a true and accurate representation of the proposed water use.
Please sign the oath statement below.

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge.

Name

Date

Name

Date

- Other: _____

June 5, 1995

Oregon

WATER
RESOURCES
DEPARTMENT

Carl Scheeler
RT 2 Box 80-B
Pendleton OR 97801

RE: Reference Number I-1138

Dear Applicant,

The Department has received your Application for a Permit to Construct a Reservoir. However, we need more information before we can accept, file, and review the application.

We will return your application and any supporting documentation to you if you fail to return the information requested on the "ADDITIONAL INFORMATION SHEET" within 60 days.

The application you submitted is for storage of water only. A secondary application would be required if you chose to maintain the water level during the non-storage season or to use the water outside the reservoir area.

We will begin our analysis when the reservoir application and requested information noted above is received. Please feel free to contact me at 1-800-624-3199 Ext. 266 if you have any questions.

Sincerely,

Russell W. Klassen
Senior Water Rights Examiner

enclosures

cc: general correspondence



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

Item (8) on the application was not completed. Please complete the statement below.
Are the lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership?_____. If not, list below the names and mailing addresses of the legal owners of all property involved in the proposed development.

A map showing the place where water is to be used and the place where the water will be diverted. The map must show the township and range, and section corners near the property applied for.

Evidence that the reservoir was constructed prior to January 1, 1993. Construction receipts, dated aerial photos, or a notarized affidavit by the landowner or other knowledgeable person will meet this requirement.

Land Use Information Form signed by a county planner (a form is enclosed).

Enclosed you will find the correct form to complete your application.

There can only be a maximum of 10 reservoirs per application. The excess reservoirs must be applied for on another application. Please complete the enclosed application.
(ORS 595 Sec. 4(2)(a))

A separate application must be submitted for each reservoir that stores 9.2 acre feet or more of water or that has a dam 10 feet or more in height. (ORS 595 Sec. 4(3)(a)) Each application will require a fee. A copy of the fee schedule is enclosed.

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Please sign the oath statement below.

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Name Date

Name Date

Other: _____

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(1 acre, 1 foot deep in water)

- The "factor" of 0.4 is to be used in all cases where sufficient information is not available for use in determining a more precise reservoir volume.

PRE-TR APPLICATION PROCESSING OUTLINE

Application File # R 80744

MINIMUM REQUIREMENTS TO FILE

OAR 690-11-020

DATE STAMP

DATE INITIAL

12-21-95 BC

Name and mailing address of applicant
Source of water
Quantity of water
Map showing location of POD & POU
Use of water
Names and addresses of legal owners
Signature of applicant.
HB 2153/HB 2107 APPLICATION -- SEE REVERSE
Oath
Application date stamped per money receipt date
Land use approved X pending _____
If reservoir < 5 AF \$ 50.00, if > 5 AF \$ _____

Route to Data Center (Unless 2153/2107)

DATA CENTER

Stream Code _____
Entered into WRIS

SUPPORT SERVICES

1/19/96 ca

_____ Stamp contents with application number
Mail ack letter (provided by Data Center) with
receipt to applicant, cc to CWRE and file
Place label on file and calendar card

APPLICATION SECTION

Stream Indexed Basin # _____
Plat Carded and copy made YES NO
If dam is over 10 feet or storage exceeds 9.2
AC-FT, route file to Dam Safety Section

TR CASEWORKER

TR Checklist complete YES NO
Within Irrigation District _____
District Notified _____
District excerpt received _____
TR Mailed DATE _____
Public Interest Checklist complete _____
Management Codes _____

REMARKS: _____

MINIMUM APPLICATION REQUIREMENTS TO FILE:

HB 2153 - existing, small, EXEMPT ponds

(date & initials) NOTICE OF EXEMPT RESERVOIR form (or letter if prior to April 8, 1994).

Appropriate map (see item 1 on form).

Evidence that reservoir existed before January 1, 1993 (one or more of the following: dated aerial photo, NOTARIZED affidavit, dated map from agency, construction receipts or other documentation).

Items 2, 3, 4, 5, and 6 are completed.

Signature (and title, if applicable)

HB 2153 - non-exempt existing ponds (large, on-channel)

Complete Minimum Requirements to File on reverse, except before routing to Data Center, change priority date to 1/1/1993. Also, confirm the following:

MC 12-21-95 Receipt of evidence that reservoir existed before January 1, 1993 (one or more of the following: dated aerial photo, NOTARIZED affidavit, dated map from agency, construction receipts or other documentation)

HB 2107 - wetland, stream restoration and storm water management

Complete Minimum Requirements to File on reverse EXCEPT DO NOT ROUTE TO DATA CENTER, BUT DO ROUTE TO CAROL. Also confirm the following:

Name/address of adjacent property owner within 1/4 mile

Map with scale not less than 2 in.=1 mi.

CWRE map if > 10 feet dam or > 9.2 AF

Description of proposed use

Condition addressed

Resulting benefits

Public notices (circle) #1 #2

January 12, 1996

CARL A SCHEELER

RT 2 BOX 80B
PENDLETON, OR 97801

REFERENCE: File # R-80744;

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Sincerely,



Ms. Anita M. Mc Loud
Water Rights Specialist
Water Rights/Adjudication Division

cc: CWRE

NATIONAL WETLANDS INVENTORY

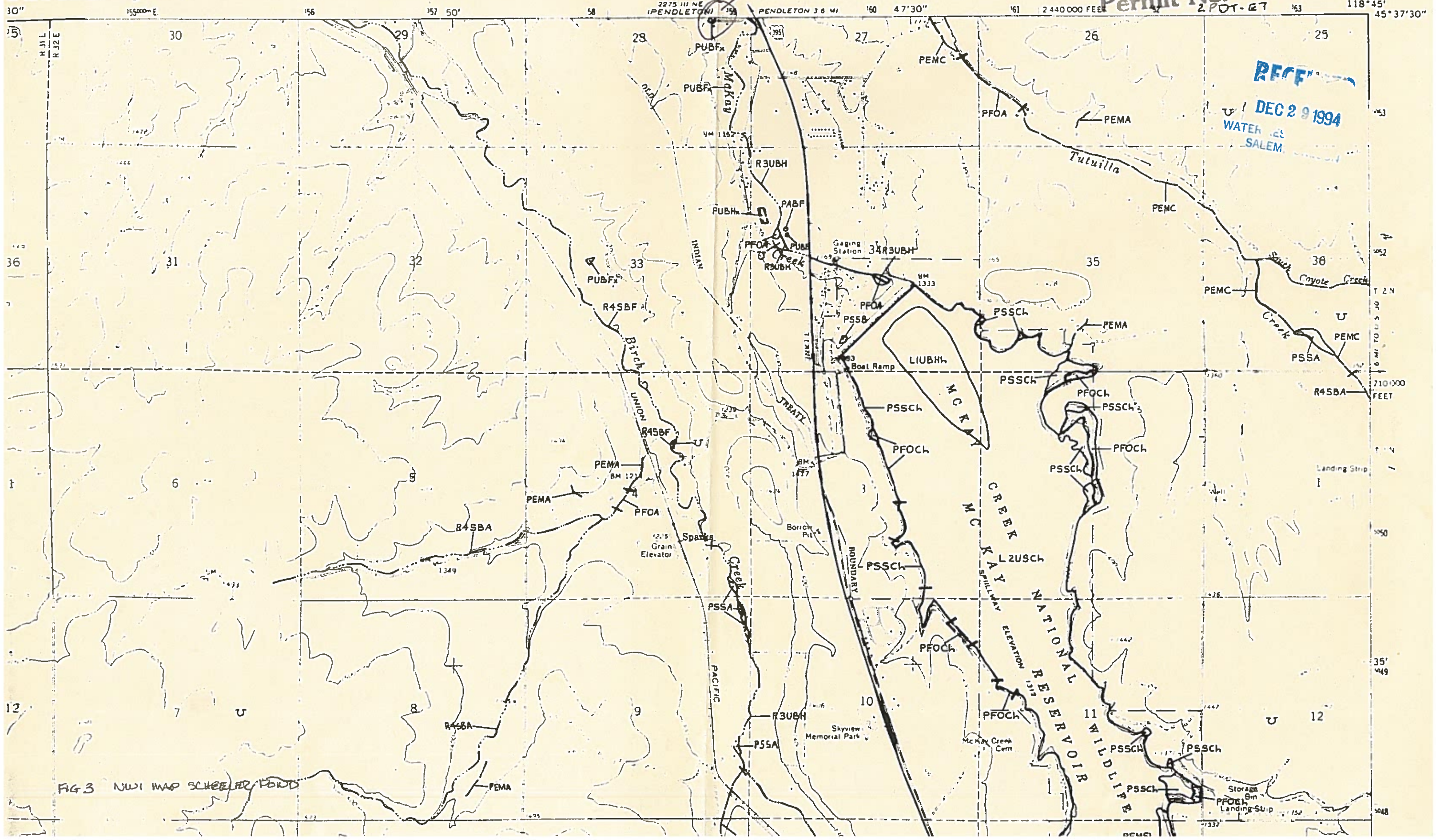
UNITED STATES DEPARTMENT OF THE INTERIOR

1991 MAPPING

Application No. **K-80744**
Permit No. **2 POT-87**

HB-2153

C KAY RESERVOIR, OREG.



REC'D
DEC 29 1994
WATER RES
SALEM

FIG 3 NWI MAP SHEET FOR POND

