



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

Application for a Permit to
**Store Water
in a Reservoir**
(Alternate Review)

Alternate Review Process (ORS 537.409): You may use this form for any reservoir storing less than 9.2 acre-feet or with a dam less than 10 feet high.

Use a separate form for each reservoir

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

1. APPLICANT INFORMATION

Applicant: Louis Giottonini
First Last
Mailing Address: 255 NW Scenic Heights Drive
Bend Oregon 97701
City State Zip
Phone: 541-647-6914 541-425-0044
City State Zip
Home Work Other
Fax: 541-647-6914 E-Mail Address*: loujot@bendbroadband.com
* 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.)

2. AGENT INFORMATION

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

Agent: ----- SAME AS ABOVE -----
First Last
Mailing Address: RECEIVED BY OWRD
City State Zip NOV 06 2015
Phone: SALEM, OR
City State Zip
Home Work Other
Fax: SALEM, OR E-Mail Address*: SALEM, OR
* 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.)

3. LOCATION AND SOURCE

A. Reservoir Name: Fish Pond at Big Bottom Ranch
B. Source: Provide the name of the water body or other source from which water will be diverted, and the name of the stream or lake it flows into. Indicate if source is run-off, seepage, or an unnamed stream or spring.
Source: spring & ground water Tributary to: Rowe Creek
C. County in which diversion occurs: Wheeler County

App. No. R-99146

For Department Use
Permit No. _____

Date _____

D. Reservoir Location

Township (N or S)	Range (E or W)	Section	quarter/quarter	tax lot number
9S	21E	22	NE - SW	101

E. Dam: Maximum height of dam: six (6') feet. If excavated, write "zero feet".

F. Quantity: Amount of water to be stored in the reservoir at maximum capacity. List volume in acre-feet: 2.88

Is this project fully or partially funded by the American Recovery and Reinvestment Act? (Federal stimulus dollars) ☐ Yes ☒ No

4. WATER USE

Indicate the proposed use(s) of the stored water. NOTE: You may wish to consider filing for "Multipurpose use" for your reservoir. Multipurpose use does not limit the types of future uses for the stored water. Multipurpose covers all uses including: stockwater, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection and pollution abatement. If any use will be out of reservoir use, regardless of the type of storage listed, a secondary application must be filed to appropriate the stored water.

MULTI PURPOSE

5. PROPERTY OWNERSHIP

Please provide a copy of the recorded deed(s).

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

☒ Yes (please check appropriate box below then skip to section 5)

☒ There are no encumbrances

☐ This land is encumbered by easements, right of way, roads of way, roads or other encumbrances

☐ No (Please check the appropriate box below)

☐ I have a recorded easement or written authorization permitting access.

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

☐ Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040). (Do not check this box if you described your use as "Multipurpose" in #3 above.)

List the names and mailing addresses of all affected landowners:

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STATUTORY WARRANTY DEED

GARY J. MILLER and JUNE W. MILLER, husband and wife, Grantor(s) hereby convey and warrant to LOUIS R. GIOTTONINI III, CO-TRUSTEE AND MARY ANN GIOTTONINI, CO-TRUSTEE OF THE GIOTTONINI FAMILY TRUST DATED SEPTEMBER 22, 1993, Grantee(s) the following described real property in the County of ~~CRICK~~ ^{Wheeler} and State of Oregon, free of encumbrances except as specifically set forth herein:

Located in WHEELER COUNTY, OREGON:

TRACT I:

Parcel Two (2) of Land Partition Plat No. 2003-08, Recorded in Records of Wheeler County, Oregon, Located in Sections 1, 2, 3, 4, 5, 9, 10, 11, 12, 14, 15, 16, 21, 22, 23, 27, and 28 of Township 9 South, Range 21 East of the Willamette Meridian, Wheeler County, Oregon.

TRACT II:

In Township 9 South, Range 21 East of the Willamette Meridian, in Wheeler County, Oregon, a tract of land situated in Sections 14, 15, 22, and 23 described as follows:

Parcel Three (3) of Land Partition Plat No. 2004-06, as shown on the plat thereof on file and of record in the office of the County Clerk of Wheeler County, Oregon.

TOGETHER WITH a 30 foot wide private access easement over and across a portion of Parcel Two (2) of Land Partition Plat No. 2004-06, said easement being situated in the SW ¼ SW ¼ of Section 11, Township 9 South., Range 21 East of Willamette Meridian as described and shown on said plat.

TOGETHER WITH a Reciprocal Agreement and Easement for Domestic Water Use attached hereto and made a part hereof as Exhibit "A".

921 TL 100 (PORTION)
921 TL 101

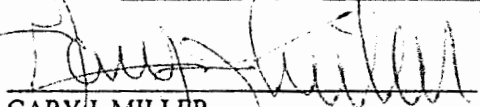
REF NO: 925
REF NO: 2862

The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:

The true and actual consideration for this conveyance is PURSUANT TO AN IRC 1031 TAX DEFERRED EXCHANGE ON BEHALF OF GRANTOR/GRANTEE.

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

Dated this 13 day of July, 2014.


GARY J. MILLER


JUNE W. MILLER

(6 pgs)

AMERITITLE 3192KT

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LEGAL DESCRIPTION OF PROPOSED PARCEL 3

**AS SHOWN ON THE TENTATIVE PLAN SUBMITTED BY GARY MILLER
FOR A PARTITION OF PARCEL 3, LAND PARTITION PLAT NO. 2003-08**

LAND IN WHEELER COUNTY OREGON AS FOLLOWS:

**A PORTION OF PARCEL 3 OF LAND PARTITION PLAT NO. 2003-08 DESCRIBED AS FOLLOWS:
PROPOSED PARCEL 1:**

TWP. 9 S., R. 21 E., W.M.:

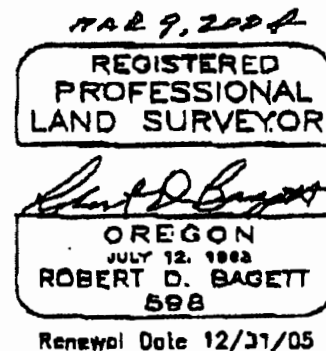
**SECTION 14: NW1/4, W1/2NE1/4, NE1/4NE1/4, SW1/4, SW1/4SE1/4, SE1/4SE1/4, EXCEPTING THEREFROM
ALL THAT PORTION OF SE1/4SE1/4 LYING ABOVE THE CROWN OF THE RIMROCK EXTENDING
NORTHERLY AND SOUTHERLY ACROSS SAID PREMISES, AND N1/2SE1/4.**

**SECTION 15: ALL THAT PORTION OF THE SE1/4 LYING EAST OF THE FOLLOWING DESCRIBED LINE:
BEGINNING AT THE EAST 1/4 CORNER OF SAID SECTION 15, THENCE SOUTHWESTERLY TO A POINT
WHICH IS 50 FEET WEST OF THE SOUTHWEST CORNER OF THE SE1/4SE1/4 OF SAID SECTION 15.**

**SECTION 22: ALL THAT PORTION OF THE NE1/4NW1/4 AND THE NW1/4NE1/4 LYING EASTERLY OF
THE DIVISION LINE BETWEEN PROPOSED PARCELS 2 AND 3 AS SHOWN ON THE ATTACHED
TENTATIVE PLAN.**

**SECTION 23: W1/2NW1/4, NW1/4SW1/4, NE1/4NE1/4, EXCEPTING THEREFROM ALL THAT PORTION OF
NE1/4NE1/4 LYING ABOVE THE CROWN OF THE RIMROCK EXTENDING NORTHERLY AND
SOUTHERLY ACROSS SAID PREMISES.**

CONTAINING APPROXIMATELY 780 ACRES

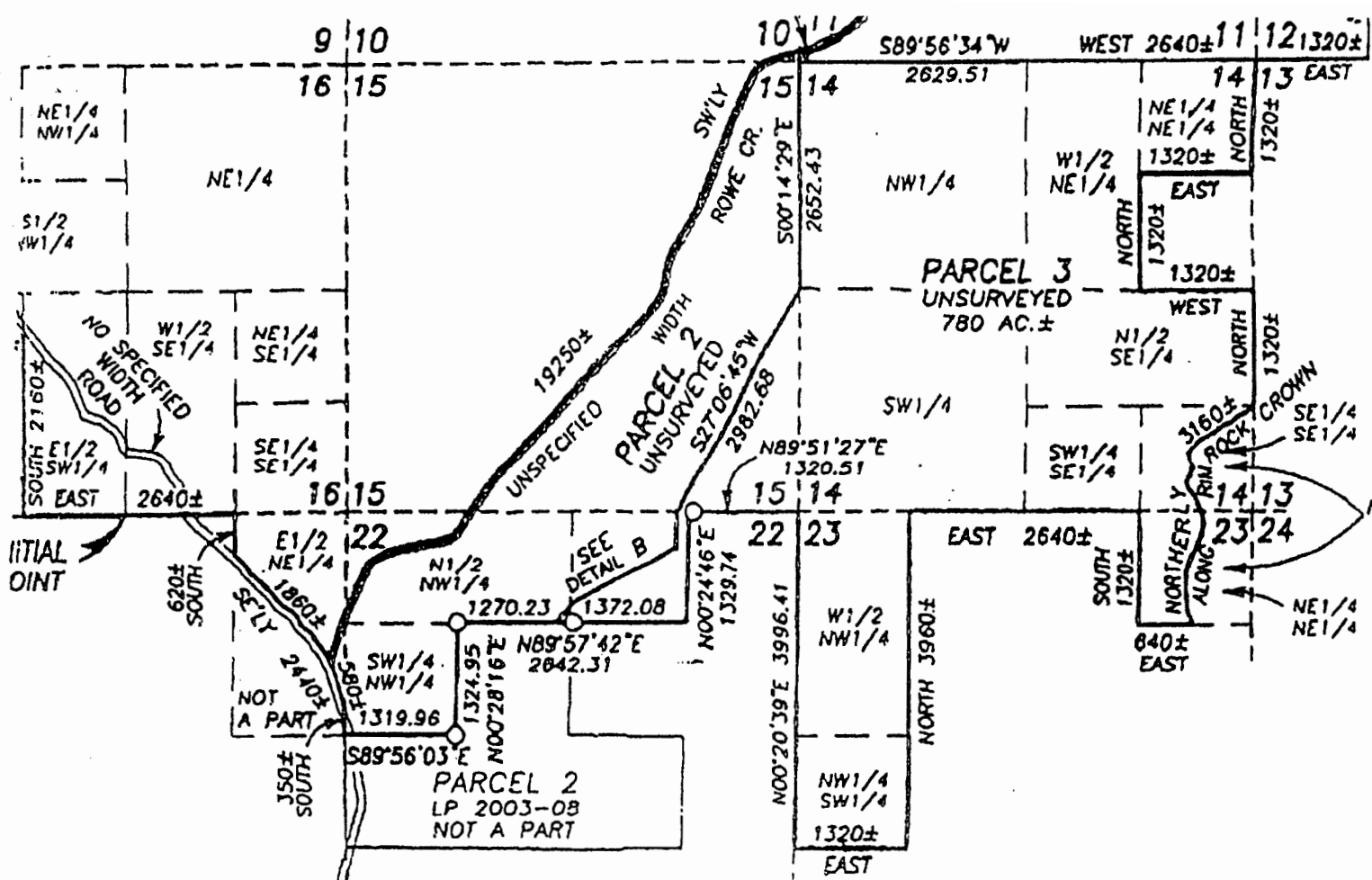


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STATE OF OREGON
County of Wheeler

I hereby certify
that the within was
received and duly
recorded in Wheeler
County records:

DEED
010215

BARBARA S. SITTON
WHEELER COUNTY CLERK

2004 MAY 19 A 11:34

BY Roberto C. [Signature] DEPUTY

Fee 51.00

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6. ENVIRONMENTAL IMPACT

- A. **Channel:** Is the reservoir: ☐ in-stream or ☒ off channel?
- B. **Wetland:** Is the project in a wetland? ☐ Yes ☒ No ☐ Don't know
- C. **Existing:** Is this an existing reservoir? ☒ Yes ☐ No
If yes, how long has it been in place? four (4) years.
- D. **Fish Habitat:** Is there fish habitat upstream of the proposed structure? ☐ Yes ☒ No ☐ Don't know
If yes, how much? _____ miles.
- E. **Partnerships:** Have you been working with other agencies? ☒ Yes ☐ No
Indicate agency, staff and phone numbers of those involved. Also indicate any agencies that are cost sharing in this project.
- NRCS/FSA, Damon Brosnan
541-384-2281

7. 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

8. DESCRIPTION

Provide a description of the design and operation of the proposed diversion, including a description of how live flow will be passed outside the authorized storage season. Use this space for narrative. You may also provide narrative and sketches on separate pages.

The subject pond was created by excavating an oval in an area of abundant ground water, found approximately 12 inches below the surface. Excavated material, primarily clay, was spread along the south, east, and west perimeter. The mound on the southern edge of the pond is a maximum of six (6) feet above ground level.

See map, sketch and aerial photo, attached.

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If the diversion involves a dam, use this space for sketches of the diversion (e.g. cross-section of the dam with its dimensions, dimension and placement of outlet pipe, means of passing live flow outside of the authorized storage season, and means for providing fish passage).

- A) MAP OF FISH POND LOCATION AT
LATITUDE 44.773027 & LONGITUDE 120.198848
- B) CROSS-SECTION OF FISH POND
- C) AERIAL PHOTO

9. SIGNATURE

I swear that all statements made and information provided in this application are true and correct to the best of my knowledge.


Landowner Signature

5/31/15
Date

Before you submit your application be sure you have:

- Answered each question completely.
- Included a legible map that includes Township, Range, Section, quarter-quarter and tax lot number.
- The map must meet map requirements to be accepted.
- Included a land use form or receipt stub signed by a local planning official.
- Included a check payable to Oregon Water Resources Department for the appropriate amount.

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Land Use Information Form



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

Applicant: LOUIS GIOTTONINI
First Last

Mailing Address: 255 NW SCENIC HEIGHTS DRIVE

BEND OR 97701 Daytime Phone: 541-647-6914
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.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
9S	21E	22	NE-SW	101		☒ Diverted	☐ Conveyed	☐ Used	FISH POND
						☐ Diverted	☐ Conveyed	☐ Used	
						☐ Diverted	☐ Conveyed	☐ Used	
						☐ Diverted	☐ Conveyed	☐ Used	

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

WHEELER 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: 2.88 ☐ 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:

FISH POND FOR RECREATION, STOCK & WILDLIFE WATER, FIRE PROTECTION

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 Page 3. →

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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): N/A

☐ 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:	
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ 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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Name: Robin Hunt-Thompson Title: WHEELER COUNTY Planning Dir.
 Signature: [Signature] Phone: 541-763-2126 Date: 5/20/15
 Government Entity: WHEELER 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: _____

WATERMASTER ALTERNATE RESERVOIR APPLICATION REVIEW SHEET

Recommendations for Water Right Applications under the Alternate Reservoir review process (ORS 537.409)

In lieu of the water right application process set forth in ORS 537.140 to 537.211, an owner of a reservoir may submit an alternate reservoir application for a reservoir that has a storage capacity less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height. ORS 537.409 describes the criteria used to evaluate alternate reservoir applications.

The review shall be limited to issues pertaining to: a) water availability, b) potential detrimental impact to existing fishery resources; and c) potential injury to existing water rights. (ORS 537.409 (6))

Within 60 days after the department provides public notice...any person may submit detailed, legally obtained information in writing, requesting the department to deny the application for a permit on the basis that the reservoir: (a) Would result in injury to an existing water right; or (b) Would pose a significant detrimental impact to existing fishery resources. (ORS 537.409 (5))

The review of alternate reservoirs is limited to these criteria only.

Application #: R- Applicant's Name: Lou Giottonini

1) Does the proposed reservoir have the potential to injure existing water rights? ☐ NO ☒ YES

Explain:

The Spring that has been dammed by Mr. Giottonini is also a source for C-87735 as described on the certificate as the spring located in 19S R21E Sec. 22 NW SW feeding the SW ditch. The installed overflow is not sufficient to control irrigation supply during the season and is the only outlet for the pond other than seepage outside the season.

2) Can conditions be applied to mitigate the potential injury to existing water rights? ☐ NO ☒ YES

If YES, which conditions are recommended:

Replace the overflow structure in the spring pond with a 4" discharge pipe and head gate control valve with inlet level with existing SW ditch elevation to supply water to C-87735 as the current infrastructure cannot be regulated.

Install overflow directly to Rowe Creek at surface water elevation consistent with Max Storage Volume.

3) Did you meet with staff from another agency to discuss this application? ☒ NO ☐ YES

Who: Agency: Date:
Who: Agency: Date:

Watermaster signature: Kenneth C. Thiemann Jr. Date: 10/23/2015

WRD Contact: Caseworker: Water Rights Division, 503-986-0900 / Fax 503-986-0901

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NOTE: This completed form must be returned to the applicant

ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant.

Applicant Name/Address/Phone/Email: Law Giathonini / 755 Scenic Heights Dr.

Bend, OR 97701 / 541-647-6914 / lawgot@bendheadband.com

Reservoir Name: Fish/Stock Pond Source: Spring source Volume (AF): _____

Twp Rng Sec QQ: 9S 21E 22 NE-S4 Basin Name: Road Creek ☐ in-channel
Lat 44.778027 Long 120.198848 ☒ off-channel

Note: It is unlikely that ODFW will be able to complete this form while you wait, nevertheless we recommend making an appointment to submit the form so as to provide any necessary clarifications. See pg. 6 of Instructions for contact information.

This portion to be completed by Oregon Department of Fish and Wildlife (ODFW) District staff.

1) Is the proposed project and AO¹ off channel? ☒ YES ☐ NO
 (if yes then proceed to #4; if no then proceed to #2)

2) Is the proposed project or AO located where NMF² are or were historically present? ☐ YES ☒ NO
 (if yes then proceed to #3; if no then proceed to #4)

3) If NMF are or were historically present:

- a. Is there an ODFW-approved fish-passage plan? ☐ YES ☐ NO
 b. Is there an ODFW-approved fish-passage waiver or exemption? ☐ YES ☐ NO

If fish passage is required under ORS 509.580 through .910, then either 3(a) or 3(b) must be "Yes" to move forward with the application. If responses to 3(a) and 3(b) are "No", then the proposed reservoir does not meet the requirements of Oregon Fish Passage Law and shall not be constructed as proposed.

4) Would the proposed project pose any other significant detrimental impact to an existing fishery resource locally or downstream? ☐ YES ☒ NO

Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)

- ☐ Any diversion or appropriation of water for storage during the period _____ through _____ poses a significant detrimental impact to existing fishery resources.
(For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.)
 If NMF fish are present at the project site or point of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.
- ☐ This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

¹ AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)

² NMF = Native Migratory Fish Species in Oregon as defined by OAR 635 - 412 - 0005 (32)

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If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?
☐ NO (explain) ☐ YES (select from Menu of Conditions on next page)

ODFW Signature: Brent Smith Print Name: Brent Smith

ODFW Title: Acting John Day District Fish Biologist Date: 11/3/15

NOTE: This completed form must be returned to the applicant.

Revised 10/4/12

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