



# 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

Waterwatch  
213 SW Ash #208  
Portland, Oregon 97204

Dear Waterwatch:

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.

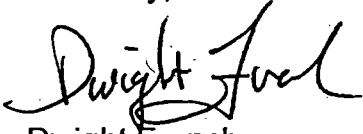
The Department received the attached rebuttals to your comments. If you do not agree with a rebuttal and believe that your comments are still valid, please send a written response to the Department identifying why you disagree with the rebuttal and affirming your position. However, if you agree with 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



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FAX (503) 378-8130

November 20, 1997

RONALD A WALCH  
10399 S FK LITTLE BUTTE  
EAGLE POINT, OR 97524

REFERENCE: FILE#: P 83090

Dear Mr. Walch,

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

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NOV 20 1997  
WATER RESOURCES DEPT.  
SALEM, OREGON

November 19, 1997

Water Resources Department  
Commerce Building  
158 12th street NE,  
Salem, Oregon 97310-0210

Dear Sirs/Madam,

I am submitting this information to counter the allegations by Water Watch, that my reservoir (P-83090), is injurious to water rights and fisheries in the South Fork Little Butte Creek drainage.

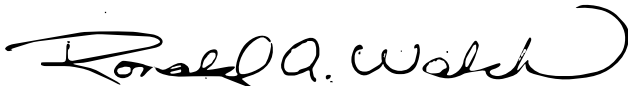
My small pond is fed by the overflow from my domestic and irrigation water supply, Certificate of Water Right - #74506. The source is two natural springs.

The springs flow is minimal. They have never flowed into South Fork of Little Butte or any of it's tributaries, even when in a natural state. As these springs are the only source of water for the pond, it is obvious that the impoundment of this water has no effect on the live stream flow in South Fork Little Butte or it's tributaries.

I ask that you reject the petition by Water Watch, and grant my reservoir a permanent exempt status.

Should you need to speak with me concerning this matter I may be reached at 1-541-776-7132 days and 1-541-826-5237 evenings.

Respectfully,



Ronald A. Walch

Encl: Letter from Water Resources Department, Salem



# Oregon

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## Water Resources Department

Commerce Building  
158 12th Street NE  
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(503) 378-3739  
FAX (503) 378-8130

November 12, 1997

FILE#: P 83090

RONALD A WALCH  
10399 S FK LITTLE BUTTE  
EAGLE POINT, OR 97524

**RECEIVED**

NOV 20 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

Dear Reservoir Owner,

You submitted a Notice of Exempt Reservoir under *ORS 537.405 (HB 2376)*. HB 2376 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 537.405*. 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 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 met in order for the reservoir to maintain an exempt status.

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 with 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



# Oregon

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Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

November 12, 1997

FILE#: P 83090

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10399 S FK LITTLE BUTTE  
EAGLE POINT, OR 97524

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

Water Right Section

## MITIGATION CONDITIONS

File # P- 83090  
Date 11-7-97  
DWF

### 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.



JUL 23 1997

Via FAX and Regular Mail

July 22, 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

Water Rights Section  
Water Resources Department  
158 12th Street NE  
Salem, OR 97310

**RE: Comments, Expedited Reservoir Applications in the Rogue River Basin:**

**Bear Creek Subbasin: 83136, 83436, 83437, 83394, 83314, 83449, 82667, 82896,  
82898, 82938, 83069, 83089, 82965, 82966, 82995**

**Sucker Creek: 83002, 83166, 882818, 83012, 83024, 83264**

**Little Applegate: 83474, 83110, 83137, 82038**

**Applegate: 83028, 82137, 83429, 83050, 83036, 82998, 83066, 83142, 83059, 83068,  
83118**

**Little Butte Creek Subbasin: 83140, 83141, 83313, 82933, 82935, 82936, 82937,  
82960, 82967, 83090**

Dear Water Rights Section:

WaterWatch requests that the Department deny the above listed reservoir requests on the basis that, if issued, they would result in injury to instream water rights and would pose a significant detrimental impact to existing fishery resources.

**I. Summary of Facts:**

**a. Water Availability:** There is no water available for further appropriation for these requested reservoirs. Bear Creek, Sucker Creek, the Little Applegate River, the Applegate River and Little Butte Creek and their tributaries are seriously overappropriated as is evidenced by attached water availability tables. *See Attachment 1, Water Availability Tables generated from WRD's WRIS.* It is important to note that the water availability tables for these creeks do not account for the water appropriated by these "existing" reservoirs.

**b. Instream Water Rights:** Instream water rights<sup>1</sup> and/or pending senior instream water rights<sup>2</sup> exist on all of these streams. These rights are not being met. Flows at the mouth of the Applegate River are not sufficient to meet the instream water right at least half of the time during the months June through November. *See Attachment 2, Report of Quantification of Unmet Instream Flow Needs, OCSRI-WRD Measure 6, June 1997.* The instream water right at the mouth of the Little Applegate is only met more than half of the time

<sup>1</sup> Including 66612, 66613, 66614, 72673, 72702, 72670, 59820, 59818, 62323, 73050, 59822, 72681, 72682

<sup>2</sup> Including 70993, 70982, 71622, 71028

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WATER RESOURCES DEPT.  
SANDY, OREGON

during February. *Id. at 6.* Flows are insufficient to satisfy the instream water right on Bear Creek at least half of the time during all months except April and May. *Id.* The flows on Jackson and Emigrant Creeks, tributaries to Bear Creek, are not met at least half of the time during all months. *Id.* Streamflows at the mouth of Little Butte Creek are insufficient to satisfy the instream water right at least half of the time during the months July through November. *Id.* Flows in Lake Creek and the upper reaches of the North Fork Little Butte Creek are insufficient to meet the instream water rights during 12 and 10 months of the year, respectively.

**c. Fishery Resources:** The aforementioned creeks support a wide variety of fish life, including coho and winter steelhead. Both species are in serious decline. Coho are a state sensitive species. Coho were petitioned for listing under the Federal Endangered Species Act. In April of 1997, the National Marine Fisheries Service decided not to list coho as threatened (for now) based largely upon representations and commitments made in the Oregon Coastal Salmon Restoration Initiative (OCSRI) that the state, including the WRD, would work towards the recovery and restoration of coastal salmon. Though coho were not listed in April, NMFS can still list coho as threatened or endangered at any time. Winter steelhead have also been petitioned for listing under the federal ESA.

## **II. Objections to applications on Bear Creek, Sucker Creek, Little Applegate River, Applegate River, Little Butte Creek and their tributaries.**

### **1. The proposed reservoirs will result in injury to instream water rights.**

As noted, the affected streams and their tributaries are overappropriated most, if not all, months of the year. Moreover, as was found by the WRD in their own assessment under the OCSRI, most instream water rights on these streams are not being met. *See Attachment 2, at page 6.* See summary of facts above.

Given that instream water rights are already not being met, any further use will exasperate the situation. The result is that the instream water rights will not get the water they are legally entitled to and thus will be "injured" if the Department issues these permits.

### **2. Water is not available for the proposed reservoirs**

As is evidenced from the attached water availability tables, all the rivers and streams in question are overappropriated most, if not all, months of the year. *See attachment 1.* Moreover, the existing water availability information does not even take the reservoirs in question into account; if it did, the streams would be even more overappropriated. To put it simply, these rivers and streams cannot support any more uses than those that already have existing water rights.

### **3. The reservoirs pose a significant detrimental impact to existing fishery resources**

The aforementioned reservoirs would decrease flows needed for imperiled coho and

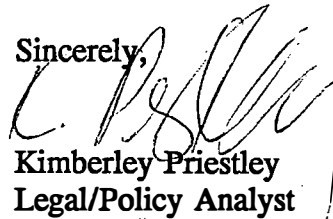
steelhead populations. As the Department is well aware, both coho and steelhead were proposed for issuance under the federal Endangered Species Act (ESA). The National Marine Fisheries Service (NMFS) decided not to list the coho salmon (for now), not because of the state of the fish but because of promises of "restoration" by the state of Oregon in both the Oregon Coastal Salmon Restoration Initiative (OCSRI) and in a MOU between the state and the NMFS. The adoption and fulfillment of instream water rights was a major "tool" identified by the state to help restore salmon populations.

Instream water rights are already not being met. This means the needs of fish are already not being met. Given that these reservoir permits, if issued, will reduce flows even more, these proposed uses pose a "significant detrimental impact to fishery resources". For this reason, these applications should be denied.

### III. Conclusion

Given that there is no water available for further appropriation, that permitting the reservoirs will cause injury to instream water rights and that the uses will have a significant detrimental impact to existing fishery resources, all of these applications should be denied.

Sincerely,



Kimberley Priestley  
Legal/Policy Analyst

cc: Nancy Couch, ODFW

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WATER RESOURCES DEPT.  
SALEM, OREGON

**LIMITING WATER AVAILABILITY SUBBASINS**

Water Availability Subbasin: 0102679293000000

Basin: ROGUE

Exceedance Level: 80

Time: 10:33

Date: 07/18/1997

Month	Limiting Subbasin	Stream Name	Water Available?	Water Available	Net Water
1	0102670000000000	ROGUE R ab GRAVE CR	NO		-901.0
2	0102670000000000	ROGUE R ab GRAVE CR	NO		-601.0
3	0102670000000000	ROGUE R ab GRAVE CR	NO		-521.0
4	0102670000000000	ROGUE R ab GRAVE CR	NO		-647.0
5	0102679293000000	LITTLE BUTTE CR @ mouth	YES	46.3	
6	0102670000000000	ROGUE R ab GRAVE CR	NO		-1081.0
7	0102670000000000	ROGUE R ab GRAVE CR	NO		-1147.0
8	0102670000000000	ROGUE R ab GRAVE CR	NO		-1662.0
9	0102670000000000	ROGUE R ab GRAVE CR	NO		-1618.0
10	0102670000000000	ROGUE R ab GRAVE CR	NO		-470.0
11	0102670000000000	ROGUE R ab GRAVE CR	NO		-2240.0
12	0102670000000000	ROGUE R ab GRAVE CR	NO		-1130.0
Stor	0102679293000000	LITTLE BUTTE CR @ mouth	YES	62500.0	

Enter (1) to CONTINUE; (2) to WRITE the Table:

*Attachment 1*

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WATER RESOURCES DEPT.  
SALEM, OREGON

**LIMITING WATER AVAILABILITY SUBBASINS**

Water Availability Subbasin: 0102679291000000

Basin: ROGUE

Exceedance Level: 80

Time: 10:31

Date: 07/18/1997

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JUL 23 1997

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	0102670000000000	ROGUE R ab GRAVE CR	NO	-901.0
2	0102670000000000	ROGUE R ab GRAVE CR	NO	-601.0
3	0102670000000000	ROGUE R ab GRAVE CR	NO	-521.0
4	0102670000000000	ROGUE R ab GRAVE CR	NO	-647.0
5	0102679291000000	BEAR CR @ mouth	NO	-61.5
6	0102670000000000	ROGUE R ab GRAVE CR	NO	-1081.0
7	0102670000000000	ROGUE R ab GRAVE CR	NO	-1147.0
8	0102670000000000	ROGUE R ab GRAVE CR	NO	-1662.0
9	0102670000000000	ROGUE R ab GRAVE CR	NO	-1618.0
10	0102670000000000	ROGUE R ab GRAVE CR	NO	-470.0
11	0102670000000000	ROGUE R ab GRAVE CR	NO	-2240.0
12	0102670000000000	ROGUE R ab GRAVE CR	NO	-1130.0
Stor	0102679291000000	BEAR CR @ mouth	YES	4420.0

WATER RESOURCES DEPT.  
SALEM, OREGON

Enter (1) to CONTINUE; (2) to WRITE the Table:

**LIMITING WATER AVAILABILITY SUBBASINS**

Water Availability Subbasin: 0101217110000000

Basin: ROGUE

Exceedance Level: 80

Time: 10:32

Date: 07/18/1997

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	0101210000000000	ILLINOIS R @ 14378000	NO	-410.0
2	0101217110000000	SUCKER CR @ mouth	YES	85.9
3	0101210000000000	ILLINOIS R @ 14378000	NO	-20.4
4	0101210000000000	ILLINOIS R @ 14378000	NO	-30.3
5	0101210000000000	ILLINOIS R @ 14378000	YES	15.7
6	0101217110000000	SUCKER CR @ mouth	NO	-5.7
7	0100000000000000	ROGUE R @ mouth	NO	-425.0
8	0100000000000000	ROGUE R @ mouth	NO	-1204.0
9	0100000000000000	ROGUE R @ mouth	NO	-1193.0
10	0101000000000000	ILLINOIS R @ mouth	NO	-141.0
11	0101210000000000	ILLINOIS R @ 14378000	NO	-1214.0
12	0101210000000000	ILLINOIS R @ 14378000	NO	-611.0
Stor	0101217110000000	SUCKER CR @ mouth	YES	64400.0

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WATER RESOURCES DEPT.  
SALEM, OREGON

Enter (1) to CONTINUE; (2) to WRITE the Table:

**LIMITING WATER AVAILABILITY SUBBASINS**

Water Availability Subbasin: 0102678820000000

Basin: ROGUE

Exceedance Level: 80

Time: 10:35

Date: 07/18/1997

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SALEM, OREGON

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	0102670000000000	ROGUE R ab GRAVE CR	NO	-901.0
2	0102670000000000	ROGUE R ab GRAVE CR	NO	-601.0
3	0102670000000000	ROGUE R ab GRAVE CR	NO	-521.0
4	0102670000000000	ROGUE R ab GRAVE CR	NO	-647.0
5	0102678820000000	LITTLE APPLGATE R @ mouth	NO	-25.9
6	0102670000000000	ROGUE R ab GRAVE CR	NO	-1081.0
7	0102670000000000	ROGUE R ab GRAVE CR	NO	-1147.0
8	0102670000000000	ROGUE R ab GRAVE CR	NO	-1662.0
9	0102670000000000	ROGUE R ab GRAVE CR	NO	-1618.0
10	0102670000000000	ROGUE R ab GRAVE CR	NO	-470.0
11	0102670000000000	ROGUE R ab GRAVE CR	NO	-2240.0
12	0102670000000000	ROGUE R ab GRAVE CR	NO	-1130.0
Stor	0102678820000000	LITTLE APPLGATE R @ mouth	YES	749.0

Enter (1) to CONTINUE; (2) to WRITE the Table:

**LIMITING WATER AVAILABILITY SUBBASINS**

Water Availability Subbasin: 0102678830000000

Basin: ROGUE

Exceedance Level: 80

Time: 10:38

Date: 07/18/1997

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	0102670000000000	ROGUE R ab GRAVE CR	NO	-901.0
2	0102670000000000	ROGUE R ab GRAVE CR	NO	-601.0
3	0102670000000000	ROGUE R ab GRAVE CR	NO	-521.0
4	0102670000000000	ROGUE R ab GRAVE CR	NO	-647.0
5	0102670000000000	ROGUE R ab GRAVE CR	YES	165.0
6	0102670000000000	ROGUE R ab GRAVE CR	NO	-1081.0
7	0102670000000000	ROGUE R ab GRAVE CR	NO	-1147.0
8	0102670000000000	ROGUE R ab GRAVE CR	NO	-1662.0
9	0102670000000000	ROGUE R ab GRAVE CR	NO	-1618.0
10	0102670000000000	ROGUE R ab GRAVE CR	NO	-470.0
11	0102670000000000	ROGUE R ab GRAVE CR	NO	-2240.0
12	0102670000000000	ROGUE R ab GRAVE CR	NO	-1130.0
Stor	0102678800000000	APPLEGATE R @ 14366000	YES	67400.0

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WATER RESOURCES DEPT.  
SALEM, OREGON

Enter (1) to CONTINUE; (2) to WRITE the Table:



Oregon Coastal Salmon Restoration Initiative  
Water Resources Department Measure 6

Attachment  
2

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REPORT ON  
QUANTIFICATION OF UNMET INSTREAM FLOW NEEDS

WATER RESOURCES DEPT  
SALEM, OREGON

The Water Resources Department has evaluated streamflow levels for each of the instream water rights in the North Coast, Mid Coast, South Coast, Umpqua and Rogue Basins. The purpose of the evaluation was to determine the extent to which instream water rights are not met, to identify the months during which the rights are not met, and to quantify the difference between streamflows and each of the instream water rights during each month of the year. Tables and charts showing monthly natural streamflows, consumptive uses and storage, instream water rights, and flow deficits for each instream water right are attached.

The Department's water availability model was used to perform the analysis. In developing the model, staff divided each major river basin into sub-areas which are called water availability basins (WABs). The estimated natural flow is that quantity of water which, on a long term basis, would flow from the WAB in the absence of any consumptive uses or storage. The WABs are "nested," each WAB being included within all other downstream WABs. Thus, the consumptive use shown for each WAB includes all consumptive uses upstream of the lowest point in that WAB.

The Department used the 50 percent exceedance streamflow level in determining if instream water right levels are met. The 50 percent exceedance value is the flow level that would be equaled or exceeded half of the time and corresponds to the median value. The natural flow level is calculated for each month of the year. Natural streamflow is the flow that would occur without any consumptive uses or storage on the stream. Estimated consumptive use in and above the WAB and monthly values for any instream water rights in the WAB were subtracted from the monthly natural flow levels. If there is more than one instream water right within a WAB, the highest monthly flow levels for the instream water rights are used. A positive result indicates that the instream water right is satisfied as least 50 percent of the time during the given month. A negative value indicates that the instream water right is met less than 50 percent of the time. On some streams, the instream water right levels exceed natural flows and could not be met 50 percent of the time without flow augmentation.

Many stream reaches have more than one instream water right protecting flows. As instream water rights have been established during the last 40 years, the level of protection afforded some streams has been increased through the establishment of additional instream water rights on streams with earlier

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WATER RESOURCES DEPT.  
SALEM, OREGON

instream rights. Generally, the result has been one instream water right protecting an increment of the needed flow and a second instream right with a later priority date protecting an additional quantity of flow. For those stream reaches on which there is more than one instream water right, the higher of each of the monthly flow values was used in determining if streamflows are sufficient to meet the instream flow requirement.

The following summary table lists the number of stream reaches on which there are instream water rights, by major river basin, and identifies the extent to which streamflows are sufficient to meet the instream water right levels 50 percent of the time.

	Number of months instream water rights met			
	12	8-11	4-7	0-3
North Coast Basin	54	48	26	6
Mid Coast Basin	22	51	21	8
South Coast Basin	71	41	83	17
Umpqua Basin	12	46	42	3
Rogue Basin	28	19	66	41

North Coast Basin

Certificates have been issued or applications are being processed for instream water rights on 134 stream reaches in the North Coast Basin. Annual consumptive use and storage accounts for less than one percent of total annual natural yield in 103 of the streams with instream water rights. Consumptive use and storage accounts for one to five percent of natural yield on 16 streams.

The use and storage of water have a significant effect on streamflows in the South Fork Necanicum River,<sup>1</sup> Peterson Creek tributary to the Nehalem River,<sup>2</sup> the Trask River and major tributaries<sup>3</sup>, and the Tillamook River<sup>4</sup> and two tributaries (Killiam<sup>5</sup> and Fawcett<sup>6</sup> Creeks).

<sup>1</sup> WAB #0802000000000000

<sup>2</sup> WAB #1004000000000000

<sup>3</sup> WAB #1600000000000000

<sup>4</sup> WAB #1700000000000000

<sup>5</sup> WAB #1701210000000000

<sup>6</sup> WAB #1701220000000000

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Flows in Peterson Creek, the Middle Fork of the North Fork Trask River,<sup>7</sup> and Fawcett Creek are not sufficient to satisfy the instream rights during any month of the year on a 50 percent exceedance basis. Consumptive use and storage in these streams accounts for 29 percent of natural flows in Peterson Creek where most of the uses are for industrial purposes, 55 percent in the Middle Fork of the North Fork Trask River where the primary use is by the City of Hillsboro, and 81 percent in Fawcett Creek where the primary use is by the City of Tillamook.

### Mid Coast Basin

Certificates have been issued or applications are being processed for instream water rights on 102 stream reaches in the Mid Coast Basin. Few streams in the basin have significant uses affecting natural flow levels. Annual consumptive use and storage accounts for less than one percent of total annual natural yield in 90 of the streams with instream water rights. Consumptive use and storage accounts for one to five percent of natural yield on nine streams.

The use and storage of water have a significant effect on streamflows in Olalla<sup>8</sup> and Mill<sup>9</sup> Creeks (tributaries to the Yaquina River). Consumptive use and storage on Olalla Creek account for 13 percent of annual yield. The predominate use of Olalla Creek is for industrial and manufacturing purposes. The instream water right on Olalla Creek is not met 50 percent of time during eight months of the year. The instream water right is equal to the natural flow during the months May through October. A deficit occurs with any out-of-stream use during this six-month period.

Flows in Mill Creek are not sufficient to satisfy the instream water right 50 percent of the time during nine months of the year. Consumptive use and storage on Mill Creek account for 37 percent of annual discharge. Mill Creek is a source of water for the City of Toledo. The instream water right level is equal to natural flow during April through June and September through November.

### South Coast Basin

Certificates have been issued or applications are being processed for instream water rights on 212 stream reaches in the South Coast Basin. Most streams in the basin have small quantities or no uses affecting natural flow levels. Annual consumptive use and storage accounts for less than one percent of total annual

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<sup>7</sup> WAB #1602223000000000

<sup>8</sup> WAB #0601000000000000

<sup>9</sup> WAB #0602000000000000

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natural yield in 181 of the streams with instream water rights. Consumptive use and storage accounts for one to five percent of natural yield on 17 streams.

Consumptive use and storage account for a significant amount of natural flow in Tenmile Creek<sup>10</sup> where an application for permit by the Coos Bay-North Bend Water Board is pending. In addition, an application for permit from Eel Creek,<sup>11</sup> a tributary of Tenmile Creek; by the Lakeside Water District is pending. With these uses of water, the 50 percent exceedance flow would be less than provided for under the instream water rights during all months of the year on Tenmile Creek and during seven months of the year on Eel Creek.

Ferry,<sup>12</sup> Sevenmile,<sup>13</sup> Bear,<sup>14</sup> and Rink<sup>15</sup> Creeks, all tributary to the Coquille River, have significant amounts of use. Irrigation and agricultural uses account for about two-thirds of the use from these streams. Most of the remainder is municipal use by the cities of Bandon and Coquille. The 50 percent exceedance flow is insufficient to meet the instream water rights on Rink Creek during all months.

Twomile,<sup>16</sup> Johnson,<sup>17</sup> and Crooked<sup>18</sup> Creeks which flow directly to the Pacific Ocean also support significant amounts of use, virtually all of which is for irrigation and agricultural purposes. The instream water rights on Crooked Creek are not met at least half of the time during all months of the year.

### Umpqua Basin

Certificates have been issued or applications are being processed for instream water rights on 103 stream reaches in the Umpqua Basin. The North Umpqua River has only small quantities or no uses affecting natural flow levels. Annual consumptive use and storage accounts for less than one percent of total annual natural yield in 67 of the streams with instream water rights. Consumptive use and storage accounts for one to five percent of natural yield on 14 stream reaches in the Elk Creek and South Umpqua drainages.

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10 WAB #0100000000000000  
 11 WAB #0101000000000000  
 12 WAB #1601000000000000  
 13 WAB #1602000000000000  
 14 WAB #1603000000000000  
 15 WAB #1607000000000000  
 16 WAB #1900000000000000  
 17 WAB #1700000000000000  
 18 WAB #1800000000000000

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Unmet Instream Flow Needs  
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Elk Creek,<sup>19</sup> a tributary of the mainstem Umpqua River, supports a significant amount of domestic, livestock, irrigation and municipal use, particularly above the gage near Drain.<sup>20</sup> Irrigation is the primary use of water from Elk Creek, but none of the individual water rights are for large quantities of water. The municipal rights are held by the cities of Drain and Yoncalla. The instream water rights on these streams are not met at least half of the time during four to six months of the year.

Significant quantities of water are used from Cow,<sup>21</sup> Lookingglass,<sup>22</sup> and Myrtle<sup>23</sup> Creeks, all tributary to the South Umpqua River. The predominate uses of water from Cow Creek are for irrigation and industrial purposes. There is a total of more than 1,000 water rights from Cow Creek for domestic, livestock, irrigation, municipal, and other uses. The instream water right at the mouth of Cow Creek is met at least half of the time during all months except October. The instream water right at the mouth of Windy Creek<sup>24</sup> is not met at least half of the time during May through November.

The predominate uses of water from Lookingglass and Myrtle Creeks are for irrigation and industrial purposes, but there are no large, individual water rights in the drainages. The city of Myrtle Creek holds water rights from the Harrison Young Branch of North Myrtle Creek and Myrtle Creek. The 50 percent exceedance flows are not sufficient to meet the instream water right at the mouth of Lookingglass Creek during the months of July through November. The instream water right is not met at least half of the time during the months July through October.

### Rogue Basin

Certificates have been issued or applications are being processed for instream water rights on 154 stream reaches in the Rogue Basin. Annual consumptive use and storage accounts for less than one percent of total annual natural yield in 69 of the streams with instream water rights. Consumptive use and storage accounts for one to five percent of natural yield on 45 streams.

<sup>19</sup> WAB #0105300000000000

<sup>20</sup> WAB #0105335100000000

<sup>21</sup> WAB #0105742600000000

<sup>22</sup> WAB #0105742100000000

<sup>23</sup> WAB #0105742500000000

<sup>24</sup> WAB #0105742632000000

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Consumptive uses and storage account for significant percentages of natural flow in the Applegate River<sup>25</sup>, Bear Creek<sup>26</sup>, and Little Butte Creek<sup>27</sup> drainages. Most water rights in the Applegate River drainage are small individual irrigation rights, however, the Talent Irrigation District does hold water rights from the Little Applegate River.<sup>28</sup> Flows at the mouth of the Applegate River are not sufficient to meet the instream water right at least half of the time during the months June through November. The instream water right at the mouth of the Little Applegate is only met more than half of the time during February.

Bear Creek supports a large amount of irrigation use and some industrial and municipal uses. The Medford, Talent, and Rogue River Valley Irrigation Districts hold large water rights in the drainage. In addition, there are numerous smaller irrigation rights. The City of Ashland also has municipal water rights from Ashland Creek, a tributary of Bear Creek. Flows are insufficient to satisfy the instream water right on Bear Creek at least half of the time during all months except April and May. The flows on Jackson<sup>29</sup> and Emigrant<sup>30</sup> Creeks, tributaries to Bear Creek, are not met at least half of the time during all months.

There are numerous small irrigation rights and a number of storage rights for irrigation water in Little Butte Creek. In addition, the Medford, Talent and Rogue River Valley Irrigation Districts hold large direct flow and storage rights for flows in Little Butte Creek. The water to be stored is diverted to Howard Prairie Reservoir in the Klamath Basin for use by the districts in the Bear Creek drainage. Streamflows at the mouth of Little Butte Creek are insufficient to satisfy the instream water right at least half of the time during the months July through November. Flows in the Lake Creek<sup>31</sup> and the upper reaches of the North Fork Little Butte Creek<sup>32</sup> are insufficient to meet the instream water rights during 12 and 10 months of the year, respectively.

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25 WAB #0102678000000000

26 WAB #0102679291000000

27 WAB #0102679293000000

28 WAB #0102678820000000

29 WAB #0102679291100000

30 WAB #0102679291500000

31 WAB #0102679293200000

32 WAB #0102679293310000



# Oregon Water Resources Department Notice of Exempt Reservoir

For reservoirs built before January 1, 1995, that

- Store less than 9.2 acre-feet of water, or
- Have a dam less than 10 feet high.

The deadline for submitting a Notice of Exempt Reservoir is January 31, 1997.

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JAN 29 1997

WATER MASTER  
DISTRICT 13

Landowner: WALCH, RONALD A.  
Last name First name MI

Authorized Agent: S/A, \_\_\_\_\_ MI  
Last name First name MI

Address: 10399 S. Fork Little Butte Crk Rd.

Eagle Point OR 97524  
City State Zip

Phone: 541-826-5237 541-776-7132  
Home Work

FAX: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

A. County of use: JACKSON B. River basin (see reverse): ROGUE

### C. Legal description of reservoir location:

Township	Range	Section	Quarter/Quarter	Tax Lot #
37 S	3 E	18	SE 1/4 / NW 1/4	2503

D. Name, if any, of reservoir: N/A E. Reservoir in existence since: 5 1 183  
MM DD YY

F. Source of water: Spring (Water Right Permit # 49400) which flows into N/A  
Name of river or creek Name of river or creek

G. Maximum height of dam: 5 feet.

H. Quantity of water stored in reservoir at maximum capacity (see reverse): 0.15 acre-feet.

I. Water stored in reservoir is used for (see reverse): Aquatic Life / IRRIGATION

J. Rate and area of use—Refer to chart on the back of this form. For each type of water use listed in Item I, show the quantity of water used and, if applicable, the number of acres on which water is used.

BEFORE YOU SIGN AND SUBMIT THIS APPLICATION . . . HAVE YOU:

Answered each question on this form as completely as possible?

Attached a legible map showing township, section, range, quarter-quarter & tax lot number?

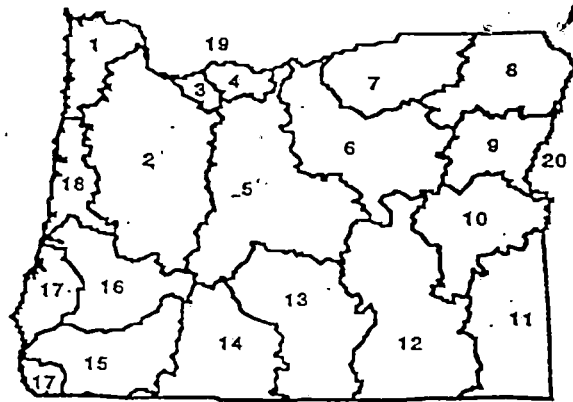
By my signature below, I swear that all statements made and information provided in this application are true to the best of my knowledge.

Ronald A. Walch RONALD A. WALCH (owner) 1-28-97  
(Signature of Landowner/Agent) (Printed name and title) (Date)

For Department Use: P 83092 10-95  
File Date received

# Oregon's major river basins:

- |               |                 |              |
|---------------|-----------------|--------------|
| 1-North Coast | 8-Grande Ronde  | 15-Rogue     |
| 2-Willamette  | 9-Powder        | 16-Umpqua    |
| 3-Sandy       | 10-Malheur      | 17-S. Coast  |
| 4-Hood        | 11-Owyhee       | 18-Mid Coast |
| 5-Deschutes   | 12-Malheur L.   | 19-Columbia  |
| 6-John Day    | 13-Goose/Summer | 20-Snake     |
| 7-Umatilla    | 14-Klamath      |              |



One acre-foot is the volume of water that would cover one acre with one foot of water. To find out how much water your pond stores, multiply the surface area by the average depth. This will give you a rough estimate of cubic feet. One acre-foot equals 43,560 cubic feet. You can submit a Notice of Exempt Reservoir at your pond stores less than 200,752 cubic feet (43,560 x 92).

## Rate and Area of Use

cfs - cubic feet per second      gpm - gallons per minute

Agriculture, Land Management			
Gen. Agriculture	cfs/gpm	# acres	_____
Irrigation	cfs/gpm	# acres	_____
Stockwater	cfs/gpm	# acres	_____
Aquatic Life	cfs/gpm	# acres	_____
Other:	cfs/gpm	# acres	_____
Cranberry	cfs/gpm	# acres	_____
Nursery Operatn.	cfs/gpm	# acres	_____
Temp. Control	cfs/gpm	# acres	_____
Forest/Range Mgt	cfs/gpm	# acres	_____
Other:	cfs/gpm	# acres	_____

Industrial/Commercial Uses			
Industrial	cfs/gpm	_____	_____
Fire Protection	cfs/gpm	_____	_____
Power Dev.	cfs/gpm	_____	_____
Commercial	cfs/gpm	_____	_____
Mining	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____

Drinking Water Supply			
Human Consumption	cfs/gpm	_____	_____
Domestic	cfs/gpm	_____	_____
Expanded	cfs/gpm	_____	_____
Domestic	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____

Community Water Supply			
Municipal	cfs/gpm	_____	_____
Group Domestic	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____
Quasi-Municipal	cfs/gpm	_____	_____
Storm Water Mgt	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____

Environmental Benefits			
Pollution Abatement	cfs/gpm	_____	_____
Wetland Enhancement	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____
Recreation	cfs/gpm	_____	_____
Wildlife	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____

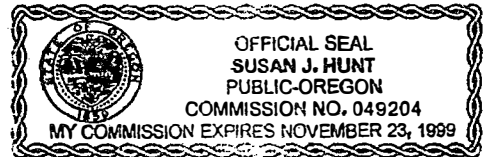


TO WHOM IT MAY CONCERN:

The pond located on Tax Lot 2503, 37 South, 3 East, Section 18,  
was constructed by the current land owner in 1983.

Ronald A. Walch  
RONALD A. WALCH

1-29-97  
Date



37 S 3E, SEC 18



7 8  
18 17

Application No. P-83090  
Permit No.

FRK Little Butte Rd

SOA Car Access Tr.

House



Tax Lot



37 S 3E Sec 18  
SE 1/4 / NW 1/4



HB 2376 EXEMPT NOTICE  
COMPLETENESS CHECKLIST

- Landowner name and address\*
- A. County of use
- B. River basin
- C. Legal description of reservoir location\*  
(Includes quarter-quarter section and tax lot)
- D. Reservoir name
- E. Date of construction
- F. Source of water and tributary\*
- G. Dam height
- H. Quantity of water stored\*
- I. Use of water
- J. Rate and area of use (if any)
- Signature of Landowner/agent
- Map showing Township, Range, Section, Quarter-quarter section and Tax Lot\* and general location of pond.

Date Received 1/29/97

Received By [Signature]

\* MINIMUM REQUIREMENT TO FILE

C:\wp51\pondchk