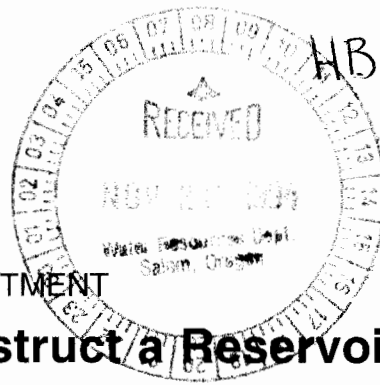


Application No.

R-75056

State of Oregon
WATER RESOURCES DEPARTMENT



HB 2153

Application for a Permit to Construct a Reservoir

Applicant(s) Richard I. & Fern M. Oken / David H. Stern, Lisa L. Higham
(Please print or type - use dark ink)

Mailing Address: P.O. Box 205
Sweet Home OR 97386 503-367-6069
City State Zip Daytime Phone No.
367-8288

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

1. **SOURCE OF WATER** for the proposed use: Brush Creek,
a tributary of Ames Creek, a tributary of South Santiam.
If not in channel of a stream, state how it is to be filled: Diversion by rocks of graduated sizes across channel, approx. 4' wide by 1' high. A portion of the (cont.)
2. **THE DAM:** The maximum height of the structure will be 9 feet above stream bed or ground surface at the centerline.

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

If "other" give description:

N.A.

Give the location, description, and dimensions of the outlet conduit: N.A.

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: Fish & Wildlife ; Irrigation

Gene McGinnis, 01:59 PM 2/3/98 -, File R-75056 (Certificate 693

Date: Tue, 3 Feb 1998 13:59:26 -0800 (PST)
X-Sender: mcginnlg@mailhub.wrd.state.or.us (Unverified)
To: Laura.K.SNEDAKER@wrd.state.or.us
From: Gene McGinnis <Leon.G.MCGINNIS@wrd.state.or.us>
Subject: File R-75056 (Certificate 69383) - Request for ownership
address

Linn County Assessor records show the following names and
addresses for Township 14 South, Range 1 East, Section 4, Tax
Lots 2201 and 2202.

Lot 2201 - David H. Stern & Lisa Higham, 42901 Ames Creek
Road, Sweet Home, Or. 97386 - 0000

Lot 2202 - David and Susan Patterson, 42833 Ames Creek Road,
Sweet Home, Or. 97386 - 9705

Hope this helps

Gene

*> per switchboard
web site
367-8288*

January 16, 1998

WATER
RESOURCES
DEPARTMENT

RICHARD I. AND FERN M. OLSEN
DAVID H. STERN& LISA L. HIGHAM
P.O. BOX 205
SWEET HOME, OR 97386

Reference: File R-75056

Dear Certificate Holder:

Thank you for your continuing efforts in our program for issuing final water rights certificates for existing ponds and reservoirs. We know it has been a long and complicated process, and we appreciate your cooperation.

As indicated in our letters to you last November, we had previously received written comments indicating that your reservoir could be detrimental to fish or might cause injury to other water rights. You were provided an opportunity to submit additional information addressing those comments.

Since then, we have reviewed all the information available to us, and have determined that certain conditions are necessary to mitigate the potential harm to fish or other water rights. The enclosed Mitigation Order spells out the additional conditions we are proposing.

If you agree with these conditions, and comply with the Mitigation Order, the process will be complete.

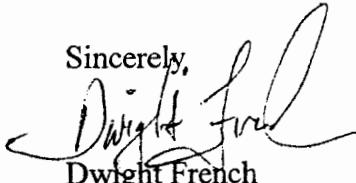
If you disagree with this order, you may request a contested case hearing, and submit in writing your reasons why the order should be changed or rescinded. You may wish to submit maps or sketches to help us to better understand the particulars of your situation. Once we receive your request for a contested case hearing, we will contact you to discuss the situation and how we might be able to settle disagreements without holding a hearing. If we are unable to agree on a solution, we will schedule a contested case hearing at a time that is agreeable to both you and the Department. The appeal rights are described in more detail in the order enclosed.



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

Once again, thank you for your participation in this program. If you have any questions please call one of the water rights staff listed below. My extension number is 268.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dwight French".

Dwight French
Water Rights Section Manager

Enclosures

cc: Watermaster

Russ Klassen	1-800-624-3199 Ext 266
Laura Snedaker	Ext 331
Dallas Miller	Ext 272

Oregon Water Resources Department
Water Rights Division

Water Rights Certificate
Number 69383

Reservoir Mitigation Order

Application History

A reservoir was constructed prior to January 1, 1995. As evidence of the right to store water, pursuant to ORS 537.407(1), an application was submitted.

Pursuant to ORS 537.407(3)(a) the Department has received information from Oregon Department of Fish and Wildlife demonstrating that the reservoir poses a significant detrimental impact to existing fishery resources.

ORS 537.407(6) specifies that "...the director shall require the owner of the reservoir to take appropriate action to mitigate injury to existing water rights or impact to the existing fishery resource."

Therefore, the Department has determined that with the following additional mitigation condition(s), the injury to existing water rights and/or detrimental impact to existing fishery resources, described above, will be mitigated.

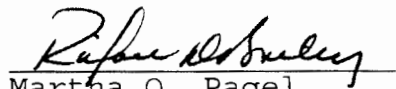
Order

Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion.

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.

Therefore, pursuant to ORS 537.407, the use evidenced by certificate 69383 shall be allowed to continue if the injury/negative impact of the reservoir is mitigated as described above.

DATED January 16, 1998


Martha O. Pagel
Director

Notice of Right to Contested Case Hearing

The owner of the reservoir that is the subject of this mitigation order may request a contested case hearing if the owner disagrees with the order. Most disagreements are settled through a series of informal discussions before the hearing date arrives.

If the department does not receive a request for hearing within the time stated in this notice you have waived your right to a hearing under ORS Chapter 183, unless your failure to request a hearing was beyond your reasonable control, as provided in OAR 137-03-075.

The record of this proceeding to date, including information in Department files on the subject of this proceeding, is automatically part of the contested case record upon default for the purpose of proving a prima facie case.

In order to process your request for a contested case hearing please include the following in writing:

- The reference number (located near the top right corner of the order.);
- Your name, address, and telephone number;
- A detailed description of why the condition(s) proposed in this order is not necessary to protect existing water rights or fishery resources;
- Any citation of legal authority to support your protest, if known.

Your request for a contested case hearing must be received by the Department no later than 60 days after the date of this order.

Send your request for a contested case hearing to:

Ponds Program Appeals
Water Rights Section
Oregon Water Resource Department
158 12th ST NE
Salem OR 97310



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

RICHARD I OLSEN
OLSEN, FERN M; STERN, DAVID H; HIGHAM, LISA L
PO BOX 205
SWEET HOME, OR 97386

REFERENCE: FILE#: R 75056

Dear Mr. and Ms. Olsen, Mr. Stern, and Ms. Higham,

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.

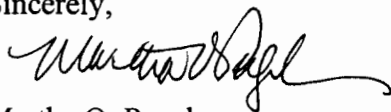
This is why you received a letter from us last week. For more than 16,000 ponds on which notices were filed under HB 2376, about 960 comments were received. From those comments, we determined that about half would appear to require mitigation measures. A total of 450 letters were sent out last week to 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 black ink, appearing to read "Martha O. Pagel", with a long, sweeping horizontal line extending to the right.

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 10, 1997

FILE#: R 75056

RICHARD I OLSEN
OLSEN, FERN M; STERN, DAVID H; HIGHAM,
PO BOX 205
SWEET HOME, OR 97386

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 # 69383
App # 75056
Date 11-7-97
LRS

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.

R75056

Oregon

12

NOTE TO LOCAL GOVERNMENTS

WATER
RESOURCES
DEPARTMENT

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.



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

July 29, 1997

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



DEPARTMENT OF
FISH AND
WILDLIFE

Salem District Office

RE: HB 2153 Certificate/HB 2376 Notice Review
Certificate No. 69383
Linn County
Ames Creek > S. Santiam River; 1.20 acre feet and 0.70 acre feet

ODFW has determined that the subject reservoir(s) cause a detrimental impact on existing fish resources, specifically cutthroat, because it precludes the adequate upstream passage of fish in Ames Creek, and because reservoir-associated water diversion(s) are not adequately equipped with protective fish screening devices.

This assessment is based on the information provided in the application and our knowledge, based on past documentation of fish and/or habitat resources in the affected stream reach. Therefore, ODFW requests that WRD require the reservoir owner to complete the following actions in order for the subject reservoir(s) to maintain exempt status:

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. Additionally, to install, maintain and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the existing diversion.

Thank you for the opportunity to comment.

Sincerely,

Wayne L. Hunt

Wayne L. Hunt
Assistant District Fish Biologist

cc: Couch, HCD

RECEIVED

JUL 30 1997

**WATER RESOURCES DEPT.
SALEM, OREGON**



4412 Silverton Road NE
Salem, OR 97305
(503) 378-6925
FAX (503) 378-6233

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: RICHARD OLSEN / DAVID H. STERN
 Address: PO Box 205
Sweet Home OR 97386
 Phone: 307-6669

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): GARDEN
- ☐ 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.): POND
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☐ Other (Name and list key characteristics): _____

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	<u>.02</u> Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
☒ Reservoir or pond	
☐ Ground Water	

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

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 use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: RICHARD OLSEN / DAVID H. STERN
Address: PO Box 205
City: Sweet Home State: OR Zip: 97386 Day Phone: 360-6069

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 Rural Residential/RR-5) (e.g.	WATER DIVERTED	WATER CONVEYED	WATER USE
14-1E-4 TL 2201	Rural Residential / RR-5	✓	✓	✓
14-1E-4 TL 2202	Rural Residential / RR-5		✓	✓

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

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

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); ARTICLE 8. 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: ROBERT WHEELDON Date: 11-18-94

Title: Assistant Planner Phone: 967-3816

Signature: Robert T. Wheeler

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:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**Water Resources Department
158 12th NE
Salem, OR 97310
(503)378-3739**

8/94

mini-Forms / LU. 2

Lot 8
39.32A

CERTIFICATE NO. 69383

1320' NORTH (80.16CH) F.M.

R-75056

See Map 14 IE

1/4 Cor.

2400

30.00A

2300

4.70A

2200

4.88A

2202

7.04A

2201

7.25A

2100

7.25A

1701

0.23A

2000

50.00A



This print is made solely for the purpose of assisting in locating said premises and the company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey

ORDER No 30-38795
TRANSAMERICA TITLE INSURANCE COMPANY
315 S LYON 928 3368 ALBANY

60.00CH) 79.56CH

4 3

9 10

IE

14 IE 4

The Buyer is:

DAVID H. STERN and LISA HIGHAM
(who take title as stated below)
42901 Ames Creek Road
Sweet Home, OR 97386

Seller and Buyer agree:

1 PROPERTY DESCRIPTION. Seller sells to Buyer and Buyer buys from Seller land and all improvements (called "the property" in this contract) located in Linn County, Oregon. The property's description is:

TRACT I: A tract of land situated in the County of Linn and State of Oregon, more particularly described as follows: Beginning at a point 1796.58 feet East of the Southwest corner of the North half of the Southeast quarter of Section 4, Township 14 South, Range 1 East of the Willamette Meridian, Linn County, Oregon; thence East 513.42 feet to a 3/4" iron bolt 330 feet West of the Northeast corner of the Southeast quarter of the Southeast quarter of Section 4; thence North parallel with the East line of Section 4, 660 feet; thence West parallel to the South line of the North half of the Southeast quarter of said Section 461.67 feet; thence South 4°29' West 662.03 feet to the place of beginning.

SAVE AND EXCEPT: Beginning at an iron bolt which is North 1°15' East, 660.00 feet and North 8°45'30" West, 330.00 feet from the Northeast corner of the Southeast quarter of the Southeast quarter of Section 4, Township 14 South, Range 1 East, Willamette Meridian in Linn County, Oregon; running thence South 1°15' West parallel to the East line of said Section 4, 376.00 feet to an iron rod; thence North 45°22'50" West, 167.44 feet to an iron rod; thence North 1°11'20" East, 261.00 feet to an iron rod; thence South 88°45'30" East 122.00 feet to the point of beginning.

TRACT II: A tract of land situated in the County of Linn and State of Oregon more particularly described as follows: Beginning at a point on the South line of and North 88°45'30" West, 843.42 feet from the Southeast corner of the Northeast quarter of the Southeast quarter of Section 4, Township 14 South, Range 1 East Willamette Meridian, Linn County, Oregon, said point being the Southeast corner of that certain tract of land conveyed to Clyde M. and Thelma M. Stewart in Volume 341, Page 483, Linn County Deed Records; running thence North 5°44' East, (formerly North 4°29' East) along the East line of said Stewart Tract, 558.48 feet to an iron rod; thence North 84°16' West 35.08 feet to an iron rod; thence South 34°14'15" West 217.92 feet to an iron rod; thence South 2°48'20" West 376.88 feet, more or less, to the South line of said Northeast quarter of the Southeast quarter; thence South 88°45'30" East, 120.20 feet to the point of beginning.

SUBJECT TO and excepting the rights of the public in any roads and highways on the property.

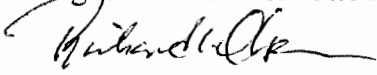
TOGETHER WITH a mobile home and appurtenant improvements, described as a 1972 Flamingo, Oregon X 62493, VIN 1796

Affidavit

NOV 2 9 1994

I, Richard I. Olsen, whose residence address is 42833 Ames Creek Drive, Sweet Home, Oregon 97386, do solemnly affirm under penalty of perjury that having purchased my property, described as T.14S., R.1E., Section 4, Tax Lot No. 2202, in the year of 1978, I can state that my pond and Mr. Stern's pond, located on Tax Lot No. 2201 adjacent to my property, were both constructed prior to January 1, 1993.

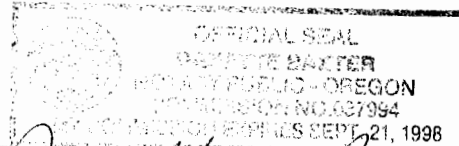
Signed at First Interstate Bank of Oregon, Sweet Home, Oregon, on November 14, 1994.


Affiant

State of Oregon

County of Linn

Signed and affirmed before me on: 11-14-94 by Richard Olsen



Title: Daritte Baxter

My commission expires: Sept 21, 1998

RECEIVED

March 2, 1998

MAR 04 1998

WATER RESOURCES DEPT.
SALEM, OREGON

Oregon



DEPARTMENT OF
FISH AND
WILDLIFE

Salem District Office

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

RE: HB 2153 Certificate/HB 2376 Notice Review
Certificate No. 69383 - File R-75056; Dave Stern
Filed by previous property owner - Richard Olsen
Linn County
Unnamed tributary to Ames Creek > S. Sant. River

ODFW conducted a site visit on February 26, 1998, to examine a series of off-channel ponds located on Dave Stern's property and the adjacent property downstream owned by Dave Patterson. It has been determined that screening will be required at the site of diversion upstream of the pond to prevent fish from being diverted from the stream into the 8" diversion pipe that feeds the pond. Dave Stern, the current property owner, agreed to comply with ODFW screening requirements by placing a screen panel composed of 1/8" mesh in front of the diversion pipe.

In addition, I met with Dave Patterson, a property owner who lives immediately downstream from Dave Stern, and who owns a pond that is fed by an underground pipe that leads from the pond on Mr. Stern's property. Mr. Patterson also stated that he will comply with ODFW's request to screen the outfall pipe that leads water back to the stream to prevent bass that currently live in the pond from escaping. A screen panel composed of 1/8" inch mesh will be used to block the outfall.

ODFW greatly appreciates the willingness and cooperation of both property owners in complying with conditions in the Mitigation Order. Thanks for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, reading "Tom Murtagh".

Tom Murtagh
Assistant District Fish and Wildlife Biologist

cc: Dave Stern, David Patterson, and Wayne Hunt



4412 Silverton Road NE
Salem, OR 97305
(503) 378-6925
FAX (503) 378-6233

July 29, 1997

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



DEPARTMENT OF
FISH AND
WILDLIFE

Salem District Office

RE: HB 2153 Certificate/HB 2376 Notice Review
Certificate No. 69383
Linn County
Ames Creek > S. Santiam River; 1.20 acre feet and 0.70 acre feet

ODFW has determined that the subject reservoir(s) cause a detrimental impact on existing fish resources, specifically cutthroat, because it precludes the adequate upstream passage of fish in Ames Creek, and because reservoir-associated water diversion(s) are not adequately equipped with protective fish screening devices.

This assessment is based on the information provided in the application and our knowledge, based on past documentation of fish and/or habitat resources in the affected stream reach. Therefore, ODFW requests that WRD require the reservoir owner to complete the following actions in order for the subject reservoir(s) to maintain exempt status:

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. Additionally, to install, maintain and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the existing diversion.

Thank you for the opportunity to comment.

Sincerely,

Wayne L. Hunt

Wayne L. Hunt
Assistant District Fish Biologist

RECEIVED
JUL 30 1997
WATER RESOURCES DEPT.
SALEM, OREGON



cc: Couch, HCD

4412 Silverton Road NE
Salem, OR 97305
(503) 378-6925
FAX (503) 378-6233

RECEIVED

MAR - 4 1998

WATER RESOURCES DEPT.
SALEM, OREGON

Saturday, February 28, 1998

To : Russ Klassen
Water Resources Department

From David Patterson
42833 Ames Creek Drive
Sweet Home, Ore 97386

Reference : File R-75056

Thursday, February 26, 1998 David Stern and I, met with Tom Murtagh, Assistant Fish and Wildlife Biologist. At are Homes and He looked over both Ponds. And said they are in very good condition. Everything was in place that we needed. He also said, he would write a letter to you confirming this. But he said it would be best to write a letter before the end of 60 days explaining this to you.

Thank You David Patterson.

4. **THE AMOUNT OF WATER** to be stored is: Pond #1* = 0.7 ; Pond #2 = 1.2 acre-feet.
The area submerged by the reservoir, when filled, will be #1 = 0.2 ; #2 = 0.3 acres,
and the maximum depth of water will be 8 feet.

* See Remarks.

5. **SPILLWAY DESCRIPTION** (location and dimensions). State whether over or around the dam. For both ponds — Southwest corner around the dam, open-top concrete box.

Pond #1 is approx. 32" wide x 45" long x 12" high discharging into 6" underground pipe.

Pond #2 is approx. 22" wide x 15' long x 20" high.

6. **PROJECT SCHEDULE:** (List month and year)

Proposed date construction work will begin EXISTING

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): N. A.

____ 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: Pond #1, Mr. David Stern, T.14S., R.1E., Sec 4, TL 2201

Pond #2, Mr. Richard Olsen, T.14S., R.1E., Sec 4, TL 2202

Under HB2153, we are hereby applying for water rights for our respective ponds. On Mr. Stern's property, some water is diverted from the creek and piped to his pond. Mr. Olsen's pond receives water from Pond #1 by means of a connecting underground pipe. An easement has been granted for this pipe. Water leaves Pond #2 and re-enters the creek, on Mr. Olsen's property.

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:

Richard L. Olsen
Signature

11-17-94
Date

David A. Stern
Signature

11-17-94
Date

#1 Cont. - backed up water flows through a 2' high concrete wall and 2' gate into a concrete catch basin approx. 4' x 5' x 1 1/2' deep, then into a 10" pipe.

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 SALON, Oregon, on the 20 day of Nov, 1994, at 8 o'clock, AM.

Priority 1/1/93

APPLICATION NO: R-75056