



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: Zachary Welch
First Last
 Mailing Address: 20220 Long Road
 Blodgett OR 97326
City State Zip
 Phone: 541-453-4131
Home Work Other

Fax: _____ E-Mail Address*: zach@mandolincreekfarm.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: John McGee
First Last
 Mailing Address: PO Box 1472 **RECEIVED BY OWRD**
 Philomath OR 97370 **AUG 18 2017**
City State Zip
 Phone: 541-929-4226
Home Work Other **SALEM, OR**

Fax: 541-929-4227 E-Mail Address*: johnmcgee@jdmcgee.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.)

3. LOCATION AND SOURCE

A. Reservoir Name: Mandolin Creek Pond 1

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: Unknown Tributary, Locally Tributary to: Mary's River
 known as Mandolin Creek

C. County in which diversion occurs: Benton County

App. No. <u>R-88446</u>	For Department Use	Date _____
	Permit No. _____	

D. Reservoir Location

Township (N or S)	Range (E or W)	Section	quarter/quarter	tax lot number
11S	7W	8	NW1/4 OF NE1/4	1300

E. Dam: Maximum height of dam: 9 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: 9

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.

Multipurpose Use

5. PROPERTY OWNERSHIP

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

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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)

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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:

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? < 1 _____ 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.

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.

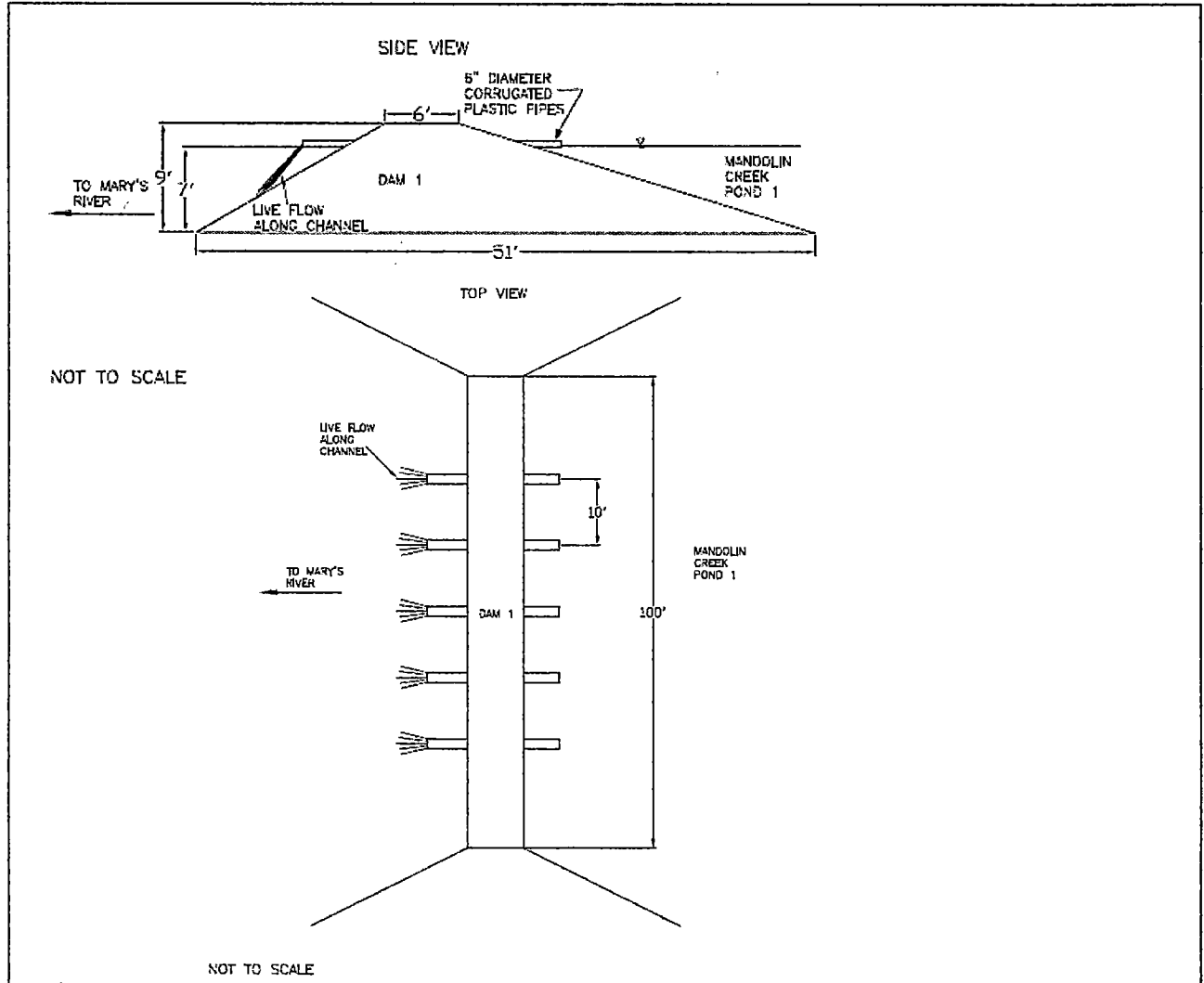
A dam, constructed in-stream, will create Mandolin Creek Pond 1. The height of the dam will be approximately 9 feet. The width of the top of the dam will be about 6 feet and the width of the base of the dam will be approximately 51 feet. Between 5 and 7, 6" diameter, corrugated plastic pipes will be placed at about 10 feet, on center, along the length of the dam and at a height of about 7 feet from the bottom of dam to allow for the passing of live flow along the channel.

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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).



9. SIGNATURE

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

[Handwritten Signature]
 Landowner Signature

6-9-2017
 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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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: Zachary Welch Mandolin Creek Pond 3

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

Explain:

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

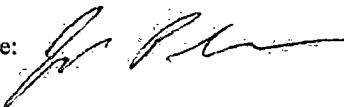
If YES, which conditions are recommended:

Limit the fill season to November 1 through May 31 of each year.

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

Who: Agency: Date:

Who: Agency: Date:

Watermaster signature:  Date: 6/15/17

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: Zachary Welch 20220 Long Rd. Blodgett, OR, 97326

541-453-4131 zach@mandolin creek farm.com

Reservoir Name: Mandolin Creek Pond 1 Source: Unknown Tributary (Locally known as Mandolin Creek) to Mary's River Volume (AF): 9

Twp Rng Sec QQ: T11S R7W Section 8 NW1/4 of NE1/4 Basin Name: Mary's River in-channel
 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.

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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)

R-AAUUL

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: _____

Print Name: _____

ODFW Title: _____

Date: _____

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

Revised 10/4/12

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After recording return to:
Zachary T. Welch
36983 Marys River Road
Blodgett, OR 97326

Until a change is requested all tax
statements shall be sent to the
following address:
Zachary T. Welch
36983 Marys River Road
Blodgett, OR 97326

File No.: 7101-1951857 (KZ)
Date: December 13, 2012

THIS SPACE RESERVED FOR RECORDER'S USE

BENTON COUNTY, OREGON **2012-500751**
DE-WD
Str=1 MR **12/19/2012 11:28:34 AM**
\$20.00 \$11.00 \$10.00 \$17.00 \$20.00 **\$78.00**

I, James V. Morales, County Clerk for Benton County, Oregon, certify
that the instrument identified herein was recorded in the Clerk
records.

James V. Morales - County Clerk

Return to First American Title

STATUTORY WARRANTY DEED

Melvin L. Olson and Iver W. Olson, Trustees of the Audrey L. Olson Living Trust dated April 24, 1995, Grantor, conveys and warrants to **Zachary T. Welch**, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

Subject to:

1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$321,000.00**. (Here comply with requirements of ORS 93.030)

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BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 13 day of December, 2012.

Audrey L. Olson Living Trust

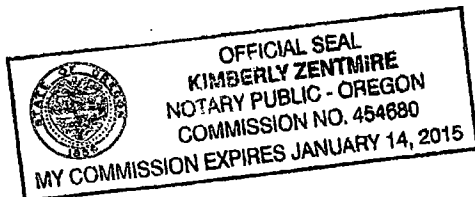
Melvin L. Olson Trustee
Melvin L. Olson, Trustee

Iver W. Olson - TRUSTEE
Iver W. Olson, Trustee

STATE OF Oregon)
)ss.
County of Benton)

This instrument was acknowledged before me on this 13th day of December, 2012 by Melvin L. Olson and Iver W. Olson as Trustees of Audrey L. Olson Living Trust, on behalf of the Trust.

Kimberly Zentmire
Notary Public for Oregon
My commission expires: 11/14/2015



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EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Benton, State of Oregon, described as follows:

BEGINNING AT THE NORTHEAST CORNER OF THE HOMESTEAD OF WILLIAM BOWMAN, BEING THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 8, IN TOWNSHIP 11, SOUTH RANGE 7 WEST; RUNNING THENCE SOUTH 26 RODS TO A SPRING BRANCH; THENCE WEST BY NORTH 96 RODS TO A POINT ON THE EAST BANK OF MARY'S RIVER WHERE THE SAME IS TURNED BY A BLUFF; THENCE NORTH TO SAID RIVER; THENCE ALONG THE MEANDER OF SAID RIVER TO THE LINE BETWEEN SECTIONS 5 AND 8; THENCE EAST ALONG SAID SECTION LINE TO PLACE OF BEGINNING.

ALSO BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 11, SOUTH RANGE 7 WEST, AND RUN THENCE NORTH 20 CHAINS, THENCE WEST TO THE CENTER OF MARY'S RIVER, THENCE SOUTH FOLLOWING ALONG THE CENTER LINE OF MARY'S RIVER TO WHERE THE SAME INTERSECTS THE SOUTH LINE OF SAID SECTION 5, THENCE EAST ALONG SECTION LINE TO THE PLACE OF BEGINNING. ALL OF THE ABOVE DESCRIBED REAL PROPERTY BEING IN BENTON COUNTY, STATE OF OREGON.

EXCEPTING THEREFROM THAT PORTION OF THE PROPERTY CONVEYED TO THE BENTON COUNTY AS RECORDED DECEMBER 14, 2006 AS 2006-414516, MICROFILM RECORDS.

NOTE: This legal description was created prior to January 01, 2008.

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OREGON DEPARTMENT OF HUMAN SERVICES
 CENTER FOR HEALTH STATISTICS
 CERTIFICATE OF DEATH

501625
 I.D. TAG NO.

STATE FILE NUMBER

278315

1. Legal Name First: Audrey Middle: L Last: Olson Suffix:			2. Death Date August 16, 2010	
3. Sex Female	4. Age 103 years	5. Social Security Number [REDACTED]	6. County of Death Benton	
7. Birthdate April 09, 1907		8. Birthplace Alsea, Oregon		9. Decedent's Education High school grad. or GED
10. Was Decedent of Hispanic Origin? No		11. Decedent's Race(s) White		12. Was Decedent Ever in U.S. Armed Forces? No
13. Residence: Number and Street 36983 Marys River Road			14. City/Town Blodgett	
15. Residence County Benton		16. State or Foreign Country Oregon		17. Zip Code + 4 97326
18. Inside City Limits? No		19. Marital Status at Time of Death Widowed		
20. Spouse's Name Prior to First Marriage Charlie A. Olson		21. Usual Occupation Homemaker		
22. Kind of Business/Industry Own Home		23. Father's Name John Spencer		
24. Mother's Name Prior to First Marriage Mamie Chesley		25. Informant's Name Iver Olson		
26. Telephone Number Not Available		27. Relationship to Decedent Son		28. Mailing Address 36983 Marys River Road, Blodgett, OR 97326
29. Place of Death Licensed Adult Foster Home		30. Facility Name JoAnne's Foster Care		
31. Location of Death 555 SE Park Avenue		32. City/Town or Location of Death Corvallis		33. State Oregon
34. Zip Code + 4 97330		35. Method of Disposition Burial		
36. Place of Disposition Crystal Lake Cemetery		37. Location Corvallis, Oregon		
38. Name and Complete Address of Funeral Facility McHenry Funeral Home, Inc. 206 NW 5th St. Corvallis, Oregon 97330				
39. Date of Disposition August 21, 2010		40. Funeral Director's Signature <i>Anna McGuire</i>		41. OR License Number FS-0520
42. Registrar's Signature <i>Eric [Signature]</i>		43. Date Received August 23, 2010		44. Local File Number 373
45. Amendment				

46. Was case referred to Medical Examiner? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		47. Autopsy? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		48. Were autopsy findings available to complete the cause of death? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		49. Time of Death 11:45 pm	
50. Enter the chain of events - diseases, injuries, or complications - that directly caused the death. DO NOT ENTER TERMINAL EVENTS such as cardiac arrest, respiratory arrest or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE. Approximate Interval: Onset to Death							
Final disease or condition resulting in death:		IMMEDIATE CAUSE ↓ End Stage Dementia					
Sequentially list conditions, if any, leading to the cause listed on line a. ENTER THE UNDERLYING CAUSE LAST (disease or injury that initiated the events resulting in death).		Due to (or as a consequence of) ↓					
		Due to (or as a consequence of) ↓					
		Due to (or as a consequence of) ↓					
		Due to (or as a consequence of) ↓					
51. Other significant conditions contributing to death, but not resulting in the underlying cause given above: Hypertension							
52. Manner of Death <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Homicide <input type="checkbox"/> Accident <input type="checkbox"/> Undetermined <input type="checkbox"/> Suicide <input type="checkbox"/> Pending		53. If Female <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Not pregnant, but pregnant 43 days to 1 year before death <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Unknown if pregnant within the past year <input type="checkbox"/> Not pregnant, but pregnant within 42 days before death		54. Did tobacco use contribute to death? <input type="checkbox"/> Yes <input type="checkbox"/> Probably <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown		55. Date of Injury (month/year)	
56. Time of Injury		57. Place of Injury (e.g., Decedent's home, construction site, restaurant, wooded area)		58. Injury at Work? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown		59. Location of Injury (Number & Street or RFD No., City/Town, State, Zip + 4)	
60. Describe how injury occurred				61. If transportation injury, specify. <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other (Specify)			
62. Name and Address of Certifier (Number & Street or RFD No., City/Town, State, Zip + 4) Lance McQuillan, MD 3517 NW Samaritan Drive #201 Corvallis, OR. 97330							
63. Name and Title of Attending Physician if Other than Certifier							
64. Title of Certifier MD		65. License Number MD26238		66. Date Signed (month/year) 8/18/2010			
67. Medical Certifier - To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner stated.				68. Medical Examiner - On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated.			
69. Amendment							

45-2DP (01/08)

THIS IS A TRUE AND EXACT REPRODUCTION OF THE DOCUMENT OFFICIALLY REGISTERED AT THE OFFICE OF THE BENTON COUNTY REGISTRAR.

DATE ISSUED:

AUG 23 2010

[Signature]
 MITCH ANDERSON
 COUNTY REGISTRAR
 BENTON COUNTY, OREGON

THIS COPY IS NOT VALID WITHOUT INTAGLIO STATE SEAL AND BORDER.

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R-88446

Receipt for Request for Land Use Information

Applicant name: Zachary Welch

City or County: Benton Staff contact: Kristin

Signature: Kristin Phone: 541-766-6298 Date: 7/26/17



Oregon Water Resources Department
Permit to Appropriate Surface Water for Storage - Alternate Reservoir Application

Main Help
 Return Contact Us

For impoundments less than 10 feet in height or storing less than 9.2 acre feet of water.

Today's Date: Monday, August 21, 2017

Base Application Fee for Storage of Surface Water.		\$410.00
Proposed Dam Height in feet.	9	
Proposed Reservoir volume in Acre Feet.	9.0	\$315.00
Permit Recording Fee. ***		\$520.00
*** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	<input type="button" value="Recalculate"/>	
Estimated cost of Permit Application		\$1,245.00

OWRD Fee Schedule

Fee Calculator Version: B20170117

LETTER OF TRANSMITTAL



Engineering & Surveying
Land Use Planning

"Solving Problems for You"

Phone: (541) 929-4226
Fax: (541) 929-4227
E-mail: jmcgee@jdmcgee.com

PO Box 1472
Philomath, OR 97370

TO:	Oregon Water Resources Department
	725 Summer St. NE, Suite A
	Salem, OR 97301

Job No: 16-75
Project: Mandolin Creek Farm – Water Rights
Date: 8/17/2017 RECEIVED BY OWRD
From: JDM
Via: USPS

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COPIES	DATE	DESCRIPTION
1	8/17/17	Completed Application for a Permit to Store Water in a Reservoir (Alternate Review) for Mandolin Creek Pond 1
1	8/17/17	Completed Application for a Permit to Store Water in a Reservoir (Alternate Review) for Mandolin Creek Pond 2
1	8/17/17	Completed Application for a Permit to Store Water in a Reservoir (Alternate Review) for Mandolin Creek Pond 3

THESE ITEMS ARE TRANSMITTED AS CHECKED BELOW OR OTHERWISE NOTED

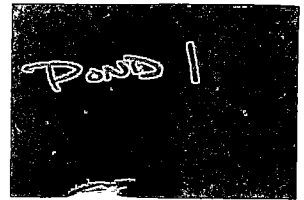
- | | | | |
|---|--|---|--|
| <input type="checkbox"/> Approved as Submitted | <input type="checkbox"/> Rejected | <input type="checkbox"/> For Approval | <input type="checkbox"/> For Distribution |
| <input type="checkbox"/> Approved as Noted | <input type="checkbox"/> Resubmit for Approval | <input type="checkbox"/> For Your Use | <input checked="" type="checkbox"/> As Indicated Below |
| <input type="checkbox"/> Returned with Comments | <input type="checkbox"/> As Requested | <input type="checkbox"/> For Review and Comment | |

REMARKS:

These applications are submitted on behalf of Zachary Welch.
Each completed application includes a completed Watermaster review sheet, completed ODFW review sheet, a signed Land-Use form receipt, a copy of the deed for land where the reservoirs will be located, a map, and a check for the applicable fees.

cc: _____

R-88446



ALTERNATE RESERVOIR PROCESS

BACKGROUND: *Why do I need a water right?*

Under Oregon Law, all water belongs to the public. With few exceptions, any person wishing to take and store surface water or ground water must first obtain a permit from the Water Resources Department (Department). The water right, once developed, is a type of property right and is attached to the land where it was established. Land with an attached water right may be several miles from the actual source of water. In Oregon, landowners with water flowing past, through, or below their property do not automatically have a right to use that water.

Oregon's water laws are based on the principle of "prior appropriation." That is, the first person to obtain a water right to a water source is the last to be shut off in times of low flow. In water-short times, water users with the oldest water right can demand the amount specified in their right regardless of the needs of junior users. If there is a surplus beyond the specified amount of the senior right holder, the person with the next oldest priority date can take their specified amount as necessary to satisfy their appropriation under their right and so on down the line until there is no surplus. The date of application for a permit determines the priority date of the right. Often, streamflow will not be available for storage during an irrigation season, so reservoirs may be filled from excess winter streamflow. Obtaining a water right secures your place within the prior appropriation system.

Oregon's water code contains four basic provisions:

- With few exceptions, surface or ground water may be diverted legally only if it is used under the terms of a valid water right for a beneficial purpose.
- The more senior the water right, the longer water is available in a time of shortage.
- A water-right certificate is attached to the land where it was established. If the land is sold, the water right goes with the land to the new owner. (This appurtenancy does not apply to water rights still in permit status.)
- A water right is valid as long as it is used at least once every five years, for its intended purpose. If the right is unused for five consecutive years, it is legally forfeited and subject to cancellation, with few exceptions.

By law, the land use associated with water use must comply with the statewide land-use goals and local land-use plans. If state goals or local comprehensive plans prohibit the land use, the water-use permit may not be exercised until land-use approval is obtained. City or county planning agencies can provide information about local land-use plans and requirements.

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THE WATER RIGHT:
Applying for a Permit to Use Water

A water-right permit is the authorization necessary from the Water Resources Department to be allowed to store water. Additional permits and approvals from other agencies may be necessary prior to construction of a storage facility. With few exceptions, the storage of water requires a water-right permit; regardless of size, or whether or not the pond or reservoir already exists.

In 1995, the legislature created a new program, the Alternate Reservoir Process, for small ponds. A permit issued under the Alternate Reservoir Process allows only for the storage of water. To use or appropriate the stored water requires a “secondary” permit for all out-of-reservoir uses, with few exceptions. The *Surface Water Right Application Guidebook* explains how to complete a secondary application. The Alternate Reservoir Process does not allow the storage of groundwater (or water from a well); to do so it is necessary to apply under the *Groundwater Permit* process.

In addition, the Alternate Reservoir Process is applicable to any pond or reservoir of any capacity with a dam height of less than 10 feet. If the dam height is 10 feet or greater, the maximum amount of water that may be stored under the Alternate Reservoir Process is less than 9.2 acre-feet. Any pond or reservoir that stores 9.2 acre-feet or greater and with a dam height of 10 feet or greater requires engineered plans and specifications; and must apply for permit under the *Standard Reservoir Process*.

A “bulge in the system” is a pond that will be used as an in-system storage facility during the irrigation season to manage and handle water allotted by an irrigation district or water that is allowed under an existing water right for irrigation or agricultural uses. If the waters held in the pond are used on a rotational basis during the irrigation season under an existing right, a water storage permit is not required. This would *not* include storing or holding water outside the irrigation season.

However, where storage for future use is needed, a permit is required.

THE PERMIT PROCESS:
How an Application is Processed

Before an application for an Alternate Reservoir water right is submitted, the applicant must contact the local Fish and Wildlife office to assess what fish passage and screening requirements will need to be addressed.¹ ODFW will provide the Alternate Reservoir Application Review Sheet form to be included with the application, as described in the instructions below.

¹ The default assumption under ORS 509.585 is that fish passage will be provided if migratory fish are present or were historically present, which requires the approval of a fish passage plan by ODFW. An alternative to providing fish passage is to seek a fish-passage waiver or exemption from the Fish and Wildlife Commission. This will require development of a plan and mitigation to be approved by the Fish and Wildlife Commission (ORS 509.585). Once a fish-passage plan, waiver or exemption is approved, the applicant can then submit the completed Alternate Reservoir application to WRD for processing. Fish-passage waiver and exemption-request applications can be found at the ODFW Fish Passage Program website [Fish Passage Requirements - ODFW](#).

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After a completed application has been received by the Department, the Department must make public notice of the application within 60 days. The Department does not notify individual, neighboring landowners of an application, unless they are identified in the application as affected landowners. The public notice is to ensure that any person may submit detailed information requesting the Department deny an application based on injury to existing water rights or based on a significant detrimental impact to an existing fishery resource. All comments must be submitted within 60 days of the public notice.

The Department issues a Final Order within 180 days of the priority date (i.e., date of submission of the application). The Department recommends applicants not schedule excavation work or otherwise expend financial resources until an ODFW fish passage plan and the alternate reservoir application have been approved.

INSTRUCTIONS: What is needed to complete the application?

STEP 1: Print out the “Application for a Permit to Store Water in a Reservoir (Alternate Review)” form, which includes the following three supplemental forms:

1. Watermaster Alternate Reservoir Application Review Sheet – to be completed by the local Watermaster, who is an employee with the Water Resources Department.
2. ODFW Alternate Reservoir Application Review Sheet – to be completed by a representative of the Oregon Department of Fish and Wildlife (ODFW).
3. Land Use Information Form – to be completed by the local Planning Department.

STEP 2: Complete the application form and prepare a map

Note: All information should be typewritten or neatly printed with dark ink. All items must be completed even if parts or all of the required information appears on supplemental maps or drawings. Applications must be submitted on original forms that are provided by the Department or watermaster. Sign the forms in INK.

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1. Applicant Information

If you are an individual applying for a permit to store water in a reservoir, include your name, *mailing* address and phone number. If there is a co-applicant, please indicate that information also. You may include a fax number or e-mail address, if you have one. These numbers are not required, but helpful if the Department must contact you.

For corporations, associations, firms, partnerships, cooperatives, and/or public and municipal corporations, complete the Authorized Agent section, including the title of the authorized agent.

2. Location and Source

In order to examine your application properly, the Department must have an accurate map that shows the location of the proposed reservoir and source or dam. The Department utilizes the following criteria for your map to ensure the timeliest processing possible.

- The map shall be of permanent quality and drawn clearly in ink on good quality paper.
- Maps should be submitted on 8.5 x 11 inch paper. If a map is larger than 11 x 17 inches, submit four copies or draw on tracing vellum or Mylar.
- The map must be drawn to a standard, even scale of not less than 4 inches = 1 mile. Standard scales include 1"= 400'; 1"= 200'; 1"= 100'. Use only whole numbers. U.S.G.S quad maps, title company maps or aerial photo maps will not be accepted.

Each copy of the map must clearly show the elements of the proposed appropriation:

- The location of the dam and reservoir. The location must be referenced to a government land survey corner (*not the property corner unless it is also a government land survey corner.*) The reservoir location may be shown by coordinates (i.e., the number of feet north or south and the number of feet east or west from survey corner). If there is no dam, reference the center of the reservoir. If the reservoir is off-channel, include both the dam/reservoir location and the location of the diversion point from the stream, if applicable.
- The Township, Range, Section and quarter-quarter section as well as tax lot lines and tax lot numbers must be indicated clearly on the map.
- Include the scale of the map as well as the North directional symbol.

A platted and recorded subdivision map, deed description survey map or a county assessor tax lot map may be submitted as the application map if all the required information is clearly shown on each print.

A. Reservoir Name: If there is no name, insert N/A. If applying for more than one reservoir, a separate application is *required* for each pond. If all reservoirs are shown on one map, label each accordingly. List as Pond #one, Pond #two, etc., unless named.

B. Source: List the commonly used name of the body of water from which the water will be diverted, and the stream it flows to (tributary). If the source is diffuse run off, please state that.

NOTE: If the source of water is from a well, you may not file under the Alternate Reservoir Process; use the *Groundwater Permit Process*.

C. Reservoir Location: Clearly indicate the location by Township, Range, Section, quarter-quarter and tax lot number. This information can be found on the base map or by contacting your local tax assessor's office.

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D. County of Use: Indicate the county where the pond or reservoir is located.

E. Dam: List the dam height. If there is no dam, enter "0 feet." NOTE: If the dam is 10 feet or greater, and the storage capacity of the reservoir is more than 9.2 acre-feet, you must apply under the *Standard Reservoir Process*.

F: Quantity: List the total quantity of water to be stored at maximum capacity. List the total in acre-feet. One acre-foot is equal to one acre in size, one foot deep. One acre-foot is also equivalent to 325,851 gallons or 43,560 cubic feet.

3. Water Use

In order to receive a water right, you must show that you will be using the water beneficially and without waste. Indicate the type of use 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 beneficial uses including: stock water, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection, and pollution abatement. Regardless of the type of storage listed, if any use will be out-of-reservoir, a secondary application will be required to appropriate the stored water.

Examples of Beneficial Uses of Water Under Oregon Water Law

- Agriculture Use
- Cranberry Use
- Stock water
- Forest and Range Management
- Commercial
- Mining
- Aesthetics
- Municipal or Quasi-municipal
- Aquatic Life
- Recreation
- Wildlife
- Irrigation
- Nursery Operations
- Temperature Control
- Industrial
- Fire Protection/Suppression
- Power Development
- Domestic use
- Storm Water Management
- Pollution Abatement
- Wetland Enhancement

4. Property Ownership

If the water you plan to use will be transported by ditch, canal or other work, or if your pond or reservoir will back up water onto another property, you must own all the property or have legal access to the property. This includes crossing any public roads or rights-of-way. Under ORS 274.040, if your application proposes only irrigation and/or domestic use, written authorization or an easement is not necessary to occupy state-owned submersible lands for the construction, maintenance and operation of any structure or facility necessary for the use of water.

- If you own all the land that includes the source, diversion and place of use of water, mark YES and skip to the next section.

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- If not, attach a list of the names and addresses of the affected property owners. If there are more than 25 landowners, you will be required to file a public notice in a newspaper that circulates in the area of the water use.

5. Environmental Impact

- A. Channel:** Indicate if the pond or reservoir is in a stream channel.
- B. Wetland:** Indicate if the project is in a wetland.
- C. Existing:** Indicate if the project is an existing reservoir and if so, how long.
- D. Fish Habitat:** If there is fish habitat upstream of the proposed reservoir, please describe.
- E. Partnerships:** List any agencies such as the Natural Resources Conservation Service (NRCS) or ODFW that you may be working with on a project.

6. Within a District

Indicate if the point of diversion or reservoir are located within or served by an irrigation or other water district.

7. Signature

All applicants must sign the application in ink.

- **Properly completed application form(s).** Only one reservoir per application. If there is more than one applicant, each applicant must sign the application.

STEP 3: Obtain a completed review from the local watermaster.

The Watermaster Alternate Reservoir Application Review Sheet must be completed by the local watermaster.

We suggest that you call to make an appointment with the local watermaster. *For assistance in locating the local watermaster office, please call 503-986-0900 or for a list of watermaster offices see: [http://www.wrd.state.or.us/OWRD/offices.shtml#Watermaster Offices](http://www.wrd.state.or.us/OWRD/offices.shtml#Watermaster%20Offices)*

The watermaster will review your completed application form and map showing the reservoir location and source and determine if the reservoir will cause injury to an existing water right. In addition, the watermaster will determine when and if water is available for the proposed use. If the watermaster determines that the reservoir will injure any existing water right and cannot identify any condition(s) that would mitigate such injury or if water is not available, the application cannot be accepted by the Department.

STEP 4: Obtain a completed review from the local ODFW fish biologist.

The ODFW Alternate Reservoir Application Review Sheet must be completed by the local ODFW representative.

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We suggest that you call to make an appointment with the local fish biologist or other representative at the appropriate ODFW office. *For assistance in locating the local ODFW office, please call 503-947-6200 or to see a map of ODFW's regions, please see:*

http://www.dfw.state.or.us/agency/directory/region_map.asp . For a list of ODFW offices see: http://www.dfw.state.or.us/agency/directory/local_offices.asp .

The ODFW representative will review your completed application form, the map indicating the reservoir location, and the information you obtained from the watermaster. ODFW will then determine if the reservoir will pose a significant detrimental impact to existing fishery resources. If ODFW identifies such an impact and cannot identify condition(s) that would mitigate the impact, the application cannot be accepted by the Department, and the applicant will need to either abandon the reservoir project or utilize the standard reservoir application process.

Additionally, for reservoirs proposed to be in-channel, ODFW will also consider: 1) fish populations and their distributions, and 2) whether fish passage requirements will be necessary. If fish passage is required, either approval of a fish-passage plan will be required or the approval of a fish passage waiver or exemption by the Fish and Wildlife commission will be needed before ODFW provides the Alternate Reservoir Application Review Sheet.

STEP 5: Obtain a completed Land-Use Information Form or receipt stub from the local planning agency.

The Land Use Information Form or receipt stub must be completed by a representative of the local planning agency.

Determine if the reservoir location is within the boundaries of a city or county or other planning jurisdiction. The representative from the planning agency will review your completed application, which will describe the proposed use of water, and your map indicating the reservoir location and determine if the proposed use of water is consistent with local land use rules. The Receipt for Request for Land Use Information allows the Department to accept the application; however, the demonstration of land-use compatibility is required before the Department will issue a permit for the proposed use.

STEP 6: Submit the application, supplemental forms, map, and fees to the Department.

Before submitting the application, be sure you include all the necessary items. Your application and supplemental materials **will be returned** if not complete.

Watermaster Alternate Reservoir Application Review Sheet: Include a Watermaster Review Sheet completed by the local watermaster. *NOTE: If the watermaster determined that your reservoir will injure an existing water right, and did not identify any conditions to mitigate such injury or if water is not available, STOP here – the Department cannot accept the application.*

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ODFW Alternate Reservoir Application Review Sheet: Include an ODFW Review Sheet completed by an ODFW representative. *NOTE: If ODFW determined that your reservoir will pose a significant detrimental impact to existing fishery resources and did not identify any conditions to mitigate such impact, STOP here – the Department cannot accept the application.*

Land Use Information Form: Include a Land Use Information Form or the Land Use Information Form receipt stub signed (*must be original*) by a representative of the local planning agency having jurisdiction (i.e., county or city planning).

Legible and accurate map: A map of the proposed development must accompany each application for a permit. See pages 3 and 4 and the Minimum Requirements on page 8 for map requirements.

Payment: A check or money order made out to WRD for the examination fee. The base fee is \$350. In addition, there is a fee of \$30 per acre-foot or fraction thereof. Example: 0.3 AF = \$380; 1.5 AF = \$410; 20.0 AF = \$950; 30.0 AF = \$1250.

NOTE: There is a \$450 permit recording fee for Alternate Reservoir applications. You may pay the permit recording fee at time of submittal or you may pay that fee at a later date prior to permit issuance. For fastest processing, the Department recommends that the permit recording fee be paid in advance. If the Department does not issue a permit, the permit recording fee will be refunded.

Secondary Application: Submit a secondary application if there will be out-of-reservoir uses associated with this reservoir **AFTER** the reservoir has been permitted.

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Alternate Reservoir Application Completeness Checklist

This is the checklist used by WRD staff

Application _____ County _____
Priority Date _____ Township _____ Range _____ Section _____ Taxlot _____
Use _____ Caseworker _____
Amount (AF) _____ Watermaster _____

Minimum Requirements (ORS 537.409)

- Completed Watermaster review sheet** signed and dated by Watermaster.
Will the reservoir injure an existing water right? YES NO
If YES, can conditions be applied to mitigate the injury? YES NO **If NO, return the application.**
Did the watermaster determine when water is available for the proposed use? YES NO
The Watermaster review sheet must have been completed within the last 6 months.
- If the watermaster determined that water is NOT available, return the application.**
- Completed ODFW review sheet** signed and dated by ODFW representative.
Will the reservoir pose a significant detrimental impact to an existing fishery resource? YES NO
If YES, can conditions be applied to mitigate the impact? YES NO **If NO, return the application.**
The ODFW review sheet must have been completed within the last 6 months.
- Completed Land-Use Form** or receipt signed by the appropriate planning department official enclosed?
Does the use on land-use form match the proposed use on the application? Must be an original "wet" signature within the last 12 months.
- Landowner Name, Mailing Address** and Telephone Number.
- Source and tributary listed.** **NO WELLS-MUST HAVE GW APP TO USE A WELL AS A SOURCE !!**
- Reservoir Location-** Township, Range, Section, Quarter Quarter, Taxlot
- Dam height**, if applicable
- Total Quantity** of Storage Requested: _____
- Proposed Use of the water....**Cannot accept application for use of this stored water at the same time (E2)
- Property ownership indicated?** If applicant does not own all the land is the affected landowner's name and mailing address listed? (Including: lands not owned by applicant, upon which the source is locatedor..... that are crossed by the diversion works. This includes any roads or rights-of-way.)
- Provide the **legal description** of all the property involved with this application. You may include a copy of your deed land sales contract or title insurance to meet this requirement
- Environmental Impact** section completed?
- Application signed by the landowner(s)?** All parties noted as applicants must sign the application.
Must be an original "wet" signature.
- Acceptable map ** Indicates requirements of standards set forth by the Commission and causes fatal flaw if not provided by the applicant.**
- Reservoir Location - noting Township, Range, Section, 1/4 1/4 and Tax Lot number(s)*
- Scale of the Map (not less than 1" = 1320') **
- Reference corner on map
- North Directional Symbol **
- 1/4's clearly identified
- Reservoir clearly identified **
- Dam or POD (If off channel) Location coordinates referenced to a government land survey corner* If no dam, use coordinates to center of reservoir.**
- Fees enclosed**? Examination: Base Fee\$ _____ Permit Recording Fee\$ _____
plus\$ _____
plus\$ _____

Total Paid \$ _____

Total Fees \$ _____

Completeness Check by: _____ Date: _____

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Appendix A

Developing your water right often entails grading trenching or other types of construction within waterways, riparian areas, and wetlands. Permits from local, state or federal agencies may be required. A good first step is to check with your local city or county planning office. The following information was provided by the Oregon Division of State Lands.

Activities in Wetlands and Waterways are Regulated by:

- The Division of State Lands (DSL) under the State Removal-Fill Law
- The U.S. Army Corps of Engineers (Corps) under the Federal Clean Water Act and Rivers and Harbors Act
- The State Department of Forestry under the Forest Practices Act
- The U.S. Natural Resource Conservation Service (NRCS) under the Food, Agriculture, Conservation and Trade Act
- Some City and County land use ordinances

What Areas are Regulated?

- Rivers streams and most creeks
- Estuaries and tidal marshes
- Lakes and some ponds
- Permanent and seasonal wetlands
- Regulations apply to all lands, public or private
- A wetland does not have to be mapped by the state or otherwise 'designated' to fall under the regulations
- If you are uncertain if there are regulated wetlands on your property, contact DSL for assistance.

What Activities are Regulated?

- Placement of fill material
- Alteration of stream bank or stream course
- Ditching and draining
- Plowing/disking non-farmed wetlands
- Excavation or dredging of material
- In-water construction (may also require a lease from DSL)
- For some activities, joint application forms can be obtained from DSL or the Corps

What Activities are Exempt

- Some routine maintenance activities
- Established, ongoing agricultural activities and grazing
- Some minor projects involving small amounts of fill or removal

How are Laws Enforced?

The best enforcement is to prevent illegal wetland alterations through information and education. However, when violations do occur, a variety of enforcement tools may be used, including restoration orders, fines of up to \$10,000 per day (DSL), civil and/or criminal charges.

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