



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

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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](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

**1. APPLICANT INFORMATION**

Applicant: Timothy Van Horn  
First Last  
 Mailing Address: 19930 Birch Lane.  
Bend OR 97703  
City State Zip  
 Phone: 541-678-1066 541-420-2107  
Home Work Other  
 Fax: \_\_\_\_\_ E-Mail Address\*: skippervanhorn@gmail.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: Timothy Van Horn  
First Last  
 Mailing Address: 19930 Birch Lane.  
Bend OR 97703  
City State Zip  
 Phone: 541-678-1066 541-420-2107  
Home Work Other  
 Fax: \_\_\_\_\_ E-Mail Address\*: skippervanhorn@gmail.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: Rosales Reservoir  
 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: unnamed spring Tributary to: n/a  
 C. County in which diversion occurs: Benton

App. No. <u>R-88587</u>	For Department Use Permit No. _____	Date _____	RECEIVED MAY 09 2018
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**D. Reservoir Location**

Township (N or S)	Range (E or W)	Section	quarter/quarter	tax lot number
145	8W	2	NW, SE	402

**E. Dam:** Maximum height of dam: zero feet 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: 0.018  
Acre-feet = (Average Length)(Average Width)( Average Depth) / 43,560

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.

*Irrigation.*

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**5. PROPERTY OWNERSHIP**

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

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

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

There are no encumbrances

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

No (Please check the appropriate box below)

I have a recorded easement or written authorization permitting access.

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

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

List the names and mailing addresses of all affected landowners:

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**6. ENVIRONMENTAL IMPACT**

- A. **Channel:** Is the reservoir:  in-stream or  off channel? *n/a*
- 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? 40+ 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	District 16	Address	725 Summer St. NE, Ste A
City	Salem	State	OR
		Zip	97301

**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.

There will be no further diversion. The source is a spring that originates on the property, flows about 15ft., then collects in this small pond. The pond appears to potentially have been excavated, but it has been long enough for trees and vegetation to move back in. It appears rather natural, perhaps there was already a pond that was simply dug a bit deeper. The pond does not overflow, rather it collects and returns to the ground at an even rate. The pond is approximately 10' x 20' x 4'.

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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).

n/a

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**9. SIGNATURE**

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

T. Duncan Von Horn  
Applicant Signature

5/2/2018  
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.

# 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: Devinne and Duncan 14S 8W Sec 2 TL 402

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:      NA

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

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

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Watermaster signature:       Date: 4/12/18

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: Timothy Van Horn/19930 Birch Lane  
Bend, OR 97703/541-678-1066/skippervanhorn@gmail.com

Reservoir Name: Rogales Reservoir Source: on-property spring Volume (AF): 0.018

Twp Rng Sec QQ: 14, 8, 2, NW, SE Basin Name: ALSEA  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 AO<sup>1</sup> 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 NMF<sup>2</sup> 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<sup>2</sup> 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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<sup>1</sup> 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)

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

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Lined area for text entry.

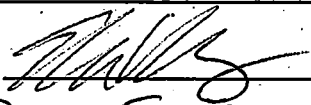
If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?  
 NO (explain)       YES (select from Menu of Conditions on next page)

Lined area for text entry.

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ODFW Signature:  Print Name: ELISE KELLY  
ODFW Title: DISTRICT FISH BIOLOGIST Date: 4/20/18

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

Revised 10/4/12

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# Land Use Information Form



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

Applicant: Timothy (Duncan) Van Horn  
First Last

Mailing Address: 19930 Birch Lane  
Bend OR 97703 Daytime Phone: 541-678-1066  
City State Zip

## A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
14	8 <del>X</del>	02 20	NW, SE	402	EFU	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Agriculture
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	

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

City: Alsea County: Benton

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## B. Description of Proposed Use

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Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water   
  Water Right Transfer   
  Permit Amendment or Ground Water Registration Modification  
 Limited Water Use License   
  Allocation of Conserved Water   
  Exchange of Water

Source of water:  Reservoir/Pond   
 Ground Water   
 Surface Water (name) \_\_\_\_\_

Estimated quantity of water needed: 0.013   
 cubic feet per second   
 gallons per minute   
 acre-feet

Intended use of water:  Irrigation   
 Commercial   
 Industrial   
 Domestic for \_\_\_\_\_ household(s)  
 Municipal   
 Quasi-Municipal   
 Instream   
 Other \_\_\_\_\_

Briefly describe:

A spring originates on our property and flows 15ft. into this existing pond. We would like to use the pond as is to irrigate a small portion of the property.

**Note to applicant:** If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

See bottom of Page 3. →

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## For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): Ag. uses permitted outright in EFV Zone
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

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

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Name: Kevin Young Title: Senior Planner  
 Signature: Kevin Young Phone: (541) 766-0119 Date: 4-6-18  
 Government Entity: Benton County

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

**Receipt for Request for Land Use Information**

Applicant name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

RECORDING REQUESTED BY:



400 SW 4th St, Ste 100  
Corvallis, OR 97333

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AFTER RECORDING RETURN TO:

Douglas Lavern Culley  
27802 Vernon Rd  
Alsea, OR 97324

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TRUST DEED

THIS TRUST DEED, made on the Jan 22, 2018 between T. Duncan Van Horn and Devinne R. Fagen and Wade P. Fagen and Toni R. Fagen, as Grantor, Ticor Title Company of Oregon, as Trustee and Douglas Lavern Culley, as Beneficiary,

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Benton County, Oregon described as:

A tract of land in Section 2, Township 14 South, Range 8 West of the Willamette Meridian, in the County of Benton and State of Oregon, more particularly described as follows:

Beginning at a 3/4" iron rod which is 33.19 feet North 43° 49' West from the most Easterly Southeast corner of the James Edwards Claim No. 41, Township 14 South, Range 8 West of the Willamette Meridian in the County of Benton and State of Oregon; thence, from said 3/4" iron rod, North 60° 17' East 144.16 feet to a 3/4" iron rod; thence, continuing North 60° 17' East 57 feet, more or less, to the center of the Alsea River; thence South 57° 46-3/4' East, along the center of said river, 123.01 feet; thence South 12° 16-3/4' West 248.21 feet to a 3/4" iron rod; thence North 64° 48-3/4' West 203.33 feet to a 3/4" iron rod; thence North 19° 00'-1/2' West 128.9 feet to the point of beginning.

TOGETHER WITH an easement and right-of-way in like manner and along the same route as the easement described in deed to James Kirkland, et ax as recorded in Benton County Deed Records on September 18, 1968, Instrument No. 91527, M-10265, Microfilm Records.

together with all and singular the tenements, hereditaments and appurtenances and all other rights belonging or in any way now or after appertaining, and the rents, issues and profits and all fixtures used in connection with the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor and payment of the sum of Twenty-Four Thousand And No/100 Dollars (\$24,000.00) Dollars, with the interest according to the terms of a promissory note of even date, payable to beneficiary and made by grantor, the final payment of principal and interest, if not sooner paid, to be due and payable February 1, 2023.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the note becomes due and payable. In the event the within described property, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by grantor without first having obtained the written consent or approval of the beneficiary, then at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed, shall become immediately due and payable.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain the property in good condition and repair; not to remove or demolish any building or improvement; not to commit or permit any waste of the property.
2. To complete or restore promptly and in good and habitable conditions any building or improvement which now exists or may be constructed, and which is damaged or destroyed, and pay when due all costs incurred.
3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing the same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.
4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the property against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in an amount not less than the full insurable value, written in companies acceptable to the beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary as soon as insured; if the grantor shall fail for any reason to procure any such insurance and to deliver the policies to the beneficiary at least fifteen (15) days prior to the expiration of any policy of insurance now or hereafter placed on the buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured and in such order as beneficiary may determine, or at the option of beneficiary the entire amount so collected, or any part, may be released to grantor. Such application or release shall not cure or waive any default or notice of default or invalidate any act done pursuant to such notice.
5. To keep the property free from construction liens and to pay all taxes, assessments and other charges

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assessed upon or against the property before any part of such taxes, assessments and other charges become past due or delinquent and promptly delivered receipts to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment, and the amount so paid, with interest at the rate set forth in the note secured, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants and for such payments, with interest as aforesaid, the property described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation described, and all such payments shall be immediately due and payable without notice, and the nonpayable shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust including the cost of title search as well as other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's fees and attorney's fees actually incurred.
7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this trust deed, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of any appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of the property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured; and grantor agrees, at its own expense, to take such actions and execute such instruments shall be necessary in obtaining such compensation, promptly upon beneficiary's request.
9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may (a) consent to the making of any map or plat of the property; (b) join in granting any easement or creating any restriction; (c) join in any subordination or other agreement affecting this deed or the lien or charge; (d) reconvey, without warranty, all or any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals of any matters or facts shall be conclusive proof of their truthfulness.
10. Upon any default by grantor, beneficiary may at any time by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured, enter upon and take possession of the property or any part, in its own name sue or otherwise collect rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees upon any indebtedness secured, and in such order as beneficiary may determine.
11. The entering upon and taking possession of the property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release, shall not cure or waive any default or invalidate any act done pursuant to such notice.
12. Upon default by grantor in payment of any indebtedness secured or in grantor's performance of any agreement, time being of the essence with respect to such payment and/or performance, the beneficiary may declare all sums secured immediately due and payable. In such an event the beneficiary may elect to proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to pursue any other right or remedy, either at law or in equity, which the beneficiary may have. In the event the beneficiary elects to foreclose by advertisement and sale, the beneficiary or the trustee shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured and the trustee shall fix the time and place of sale, give notice as then required by law and proceed to foreclose this trust deed in the manner provided by law.
13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to the time provided by law before the date the trustee conducts the sale, the grantor or any other person so privileged, may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amounts provided by law.
14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which the sale may be postponed as provided by law. The trustee may sell the property either in one parcel or in separate parcels, and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the

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deed of any matters of fact shall be conclusive proof of their truthfulness. Any person, excluding the trustee, but including the grantor and beneficiary may purchase at the sale.

15. When trustee sells pursuant to the powers provided, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney, (2) to the obligation secured by the trust deed, (3) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority and (4) the surplus, if any, to the grantor or to any successor in interest entitled to such surplus.
16. Beneficiary may from time to time appoint a successor or successors to any trustee named or to any successor trustee appointed. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee named or appointed. Each such appointment and substitution shall be made by written instrument executed by beneficiary, which, when recorded in the records of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.
17. Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party of pending sale under any other deed of trust or of any action proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

The grantor covenants and agrees to and with the beneficiary and the beneficiary's successor in interest that the grantor is lawfully seized in fee simple of the real property and has a valid, unencumbered title, excepting and subject to:

and that the grantor will warrant and forever defend the same against all persons.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:

- (a)\* primarily for grantor's personal, family or household purposes (see Important Notice below),
- (b) ~~for an organization, or (even if grantor is a natural person) are for business or commercial purposes.~~

This deed applies to, insures to the benefit of and binds all parties, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledges, of the contract secured, whether or not named as a beneficiary.

In construing this trust deed, it is understood that the Grantor or Beneficiary may be more than one person; that if the context so requires, the singular shall be taken to mean and include that plural, and that generally all grammatical changes shall be made, assumed and implied to make the provisions apply equally to corporations and to individuals.

Note: The Trust Deed Act provides that the trustee must be either an attorney, who is an active member of the Oregon State Bar, a bank, a trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under state law.

**IMPORTANT NOTICE:** Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosure. If compliance with the Act is not required, disregard this notice.

#### WARNING

Unless you provide us with evidence of the insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

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IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 1/22/18

T. Duncan Van Horn  
T. Duncan Van Horn

Devinne R. Fagen  
Devinne R. Fagen

Wade P. Fagen  
Wade P. Fagen

Toni R. Fagen  
Toni R. Fagen

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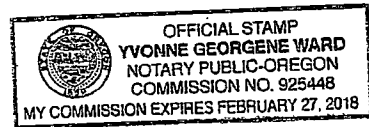
OWRD

State of OREGON

County of Deschutes

This instrument was acknowledged before me on January 22, 2018 by T. Duncan Van Horn

[Signature]  
Notary Public - State of Oregon  
My Commission Expires: 2/27/18

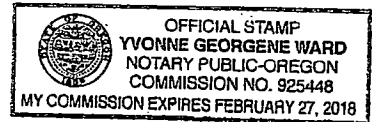


State of OREGON

County of Deschutes

This instrument was acknowledged before me on January 22, 2018 by Devinne R. Fagen

[Signature]  
Notary Public - State of Oregon  
My Commission Expires: 2/27/18

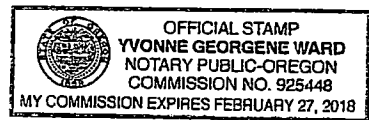


State of OREGON

County of Deschutes

This instrument was acknowledged before me on January 22, 2018 by Wade P. Fagen

[Signature]  
Notary Public - State of Oregon  
My Commission Expires: 2/27/18

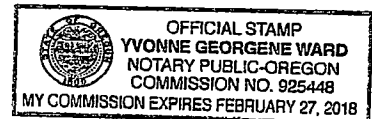


State of OREGON

County of Deschutes

This instrument was acknowledged before me on January 22, 2018 by Toni R. Fagen

[Signature]  
Notary Public - State of Oregon  
My Commission Expires: 2/27/18



R-88587

## 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)

- 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 located OR that are crossed by the diversion works. This includes any roads or rights-of-way.)
- 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, even scale such as 1" = 400', 1" = 1000', or 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 landsurvey corner\*  
If no dam, use coordinates to center of reservoir.\*\*
- 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.*
- Provide a 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.

Fees enclosed? Print page from fee calculator  
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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## Map Requirements for New Water Right Applications

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Provided is a sample map which contains all of the required elements for the map that must be submitted with a new Application for a Permit to Use Groundwater or Surface Water. Below are brief descriptions of the elements.

### A) Township, Range and Section

The Public Land Survey System (PLSS) method used in the United States to divide, or "Plat", land established a rectangular grid system by which land could be described for the purposes of mapping and selling of real property. Locations on a map could be arrived at by referencing the grid using the Township and Range to zoom in on a specific area, usually measuring 36 square miles. The Township describes the areas location North to South, and the Range describes the areas location East to West. These areas are further divided into approximately 1 square mile areas known as Sections. Oregon is divided into 9 northern Townships, 41 southern Townships, 16 western Ranges and 51 eastern Ranges.

### B) North Directional Symbol

For orientation purposes, the map must indicate which direction is North, relative to the paper the map is printed on.

### C) Even Map Scale

An even map scale is required for a complete map. The scale must be true to the dimensions of the map (be sure to check the scale of your map after it is printed). The scale cannot exceed 4-inches to a mile (1-inch = 1,320-feet). Even scales will be in increments of ten feet, i.e. 1" = 400', 1" = 550', 1" = 720' etc. Scales such as 1" = 25.4 feet or 1" = 43 feet will not be accepted.

### D) Tax Lot

The map must identify all individual tax lots where water will be diverted, conveyed or used.

### E) 1/4, 1/4 Section subdivisions identified

The 1-square mile Sections described above are further divided into 1/4 Sections by bisecting the midpoint of the Section on the North/South and West/East Section lines. These 1/4 Sections are further divided into 1/4, 1/4 Sections (1/16 Sections). These 1/4, 1/4 Sections measure approximately 1,320 feet by 1,320 feet.



**F) Public Land Survey Reference Corner**

The grid produced by the division of lands using the Township, Range, Section 1/4 Section, and 1/4, 1/4 Section subdivision method creates a number of intersecting lines. Each of these line intersections are recognized as PLSS Reference corners. Additionally, in some areas other subdivisions known as Donation Land Claims (DLC) may be used as the reference corner.

**G) Hachury**

Hachury is an identifying texture added to the map to show the area where water will be used. Diagonal lines are the most common representation; however any continuous symbol over the area is acceptable.

**H) Acres per 1/4, 1/4 PLSS subdivision**

The map must show a breakdown of the number of acres in each 1/4, 1/4 PLSS subdivision.

**I) Well or Diversion and Conveyance**

The map must identify the location of the well or diversion with a unique symbol. Additionally, if the well or diversion fall outside of the area the water is to be used, the map must also include the approximate location of the conveyance system (pipe, ditch etc) from the well or diversion to the area of use.

**J) Description of the location of the well or diversion**

The map must include a description of the location of the well or diversion, referenced to a recognized PLSS corner, using the distance North/South and West/East from the reference corner. Additionally, the location may be identified using latitude and longitude coordinates.



# Oregon

Kate Brown, Governor

## Water Resources Department

North Mall Office Building  
725 Summer St NE, Suite A  
Salem, OR 97301  
Phone (503) 986-0900  
Fax (503) 986-0904  
www.wrd.state.or.us

May 10, 2018

Timothy Van Horn  
19930 Birch Lane  
Bend, Or. 97703

Dear Timothy,

The Water Resources Department has received your application for a permit to use surface or ground water. At this time, however, we are unable to accept your application because the minimum filing requirements have not been met according to the Oregon Administrative Rules (OAR 690-310-0040 and 0050).

We are therefore returning the incomplete application and fees. You may resubmit the application with the additional required information and fees noted on the enclosed checklist.

Should you have any questions, please contact Water Right Customer Service at 503-986-0801.

Sincerely,

Edward P. Gosse  
Water Rights Customer Service

Cc: OWRD Fiscal

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*This review is based only on the completeness of your application(s). Any determination of water availability, compliance with basin plan rules, or any other water related issues has not been made. Fees may change.*

*\* Amended map and added copy of the deed*

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# Application Completeness Checklist

Minimum Requirements (OAR 690-310-0040)(ORS 537.400)

- A **Legal Description** of all the properties involved where water is diverted, crossed, and used. The legal description includes a metes and bounds or other government survey description. A copy of the deed, land sales contract or title insurance policy can provide this information, or applicant may submit a lot book report prepared by a title company. Copies of tax bills are not acceptable.
  
- The **map** must meet all the minimum requirements of OAR 690-310-0050:
  - Township, Range, Section
  - Location of main canals, ditches, pipelines or flumes (if POA/POD is outside of POU)
  - Place of use, 1/4-1/4's and tax lot clearly identified
  - Even map scale not less than 4" = 1 mile (1" = 1320 ft.); examples: 1" = 100 ft., 1" = 200 ft.
  - Location of *each* diversion point, well or dam by reference to a recognized public land survey corner. Multiple wells shall be uniquely labeled, and identified on well logs if existing.
  - Reference corner on map
  - North Directional Symbol
  - Number of acres per 1/4-1/4 if for irrigation, nursery, or agriculture
  - For a standard reservoir application to store  $\geq 9.2$  acre feet AND having a dam height  $\geq 10$  feet, map must be prepared by a CWRE

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

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- [Return](#)   [Contact Us](#)

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

Today's Date: Wednesday, May 9, 2018

Base Application Fee for Storage of Surface Water.		\$410.00
Proposed Dam Height in feet.	0	
Proposed Reservoir volume in Acre Feet.	.018	\$35.00
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.		<a href="#">Recalculate</a>
Estimated cost of Permit Application		\$965.00

OWRD Fee Schedule

Fee Calculator Version: B20170117

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