

JAN 21 2020

OWRD



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: Marc willcuts
First Last
Mailing Address: 21700 whitehorse Drive
Dundee OR 97115
City State Zip
Phone: 503-550-7800
Home Work Other

Fax: _____ E-Mail Address*: Marc@willcutscompany.com

* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

2. AGENT INFORMATION

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

Agent: Same as Applicant
First Last
Mailing Address: _____

City State Zip
Phone: _____
Home Work Other

Fax: _____ E-Mail Address*: _____

* 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: to RENCE

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: Runoff Water Tributary to: Chehalem Creek

C. County in which diversion occurs: Yamhill

App. No. <u>R-88794</u>	For Department Use	Permit No. _____	Date _____
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D. Reservoir Location

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Township (N or S)	Range (E or W)	Section	quarter/quarter	tax lot number
3 South	3 West	23	SENE	609 & 610

E. Dam: Maximum height of dam: 10' 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: 5 ACRE FEET Acre-feet = $\frac{(\text{Average Length})(\text{Average Width})(\text{Average Depth})}{43,560}$

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 WE WILL USE POND FOR DUCK AND WILDLIFE HABITAT AND IRRIGATION FOR PASTURE.

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 HOME LOAN

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? 3 years. *small pond*
- 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.

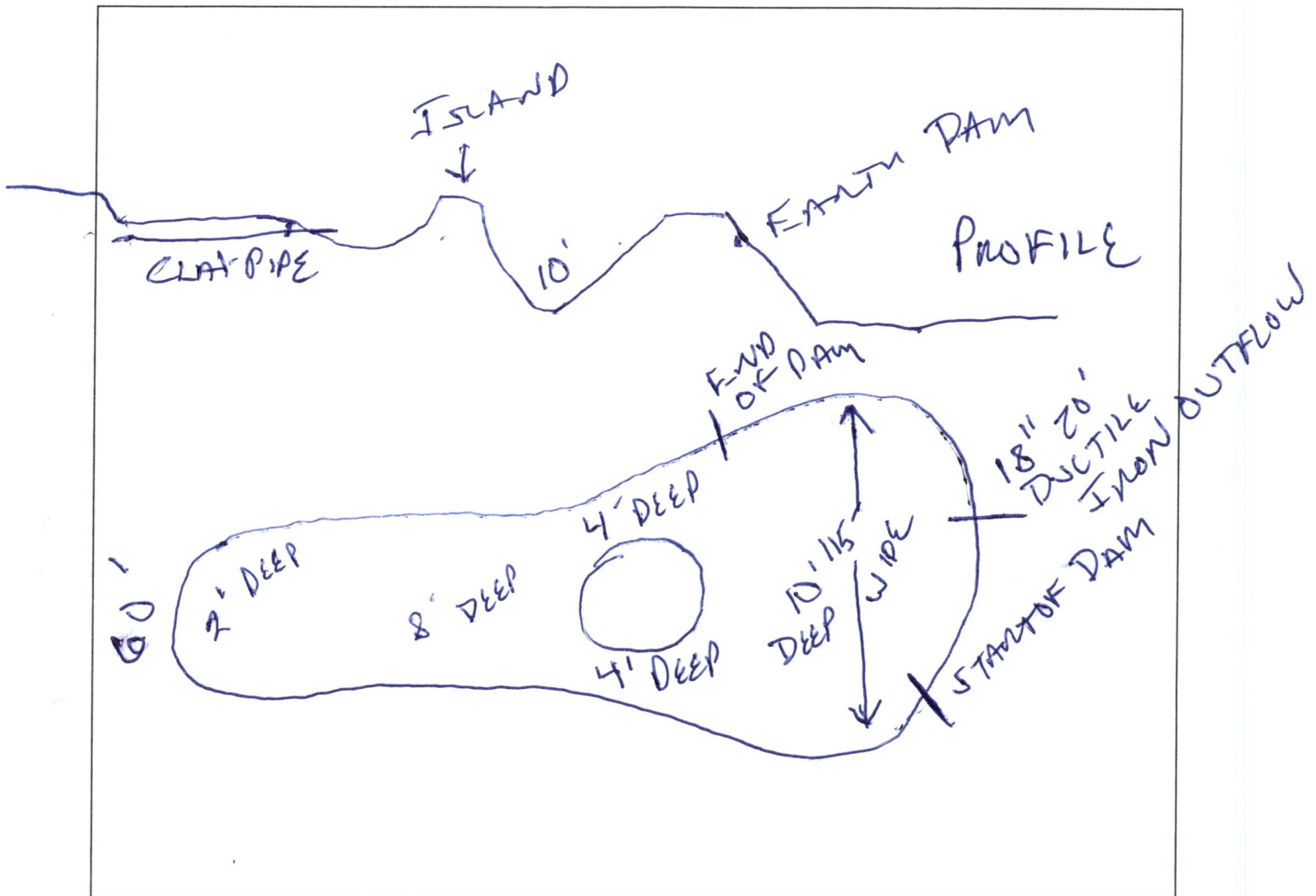
Irrigation District Name NA	Address	
City	State	Zip

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.

DECADE AGO, PRIOR TO MY OWNERSHIP, PROPERTY HAD LARGE SEASONAL POND. PLUS NEIGHBOR HAD POND WITH DAM. AN OLD CLAY DRAIN PIPE WAS INSTALLED THAT CROSSED SEVERAL PROPERTIES. DURING OUR CONSTRUCTION, BE BROKE CLAY PIPE AND WATER STARTED POOLING. THE PROPERTY HAS A NATURAL VALLEY, WE DUG DOWN AND CREATED A POND IN VALLEY WITH A DAM ON OUTFALL END.

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]

Applicant Signature

2/2/19

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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ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant.

Applicant Name/Address/Phone/Email: Marc Willcuts/21700 NE Whitehorse Drive, Dundee, OR 97115/
503-550-7800/marcw@willcutscompany.com

Reservoir Name: Renee Pond Source: Run-off, historic seasonal tributary
Volume (AF): 5 Twp Rng Sec QQ: T3 R3W S23 Basin Name: Chehalem 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)

*Based on available information, the proposed use does not appear to involve instream structures that would create or maintain an artificial obstruction. However, if the applicant creates or maintains an artificial obstruction to fish passage for the proposed use, the applicant will need to address Oregon's fish passage laws.

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 _____ 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.

Fish present near the location of the proposed use or otherwise potentially impacted by the proposed use include Spring Chinook (ESA Threatened) and Cutthroat Trout (Sensitive Species).

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)

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)

It appears that the pond is located on a historic seasonal tributary of Chehalem Creek that is likely tiled or piped downstream of the impoundment. Available information shows flows downstream in Chehalem Creek are currently wholly or partially below those essential to support the biological needs of fish and /or the proposed use will otherwise likely impact habitat or ecological functions important to fish. The proposed use may diminish physical habitat and alter the flow regime to which fish are naturally adapted, negatively impacting their distribution, productivity, and abundance. Chehalem Creek is also impaired for a number of parameters including dissolved oxygen (January 1-May 15) and temperature (June 1-September 30). Further reducing potential instream flows, particularly outside of the allowed storage period, and pond development may exacerbate these issues. To aid in the mitigation of these impairments, ODFW has the following recommended conditions:

ODFW's Recommended Conditions:

- 1) **Wetland:** To protect beneficial uses, the Oregon Department of Fish and Wildlife recommends the applicant submit an offsite determination request to the Oregon Department of State Lands (DSL) to determine the need for a wetland delineation. The offsite determination will identify waters of this state that are subject to regulation and authorization requirements of the Removal-Fill Law (ORS 196.800 to 196.990) that may be needed prior to disturbance or development of the point of diversion.
- 2) **In-Water Work:** To protect beneficial uses, the Oregon Department of Fish and Wildlife (ODFW) recommends any in-water work related to development of the proposed use be conducted during July 15 – September 30 unless an alternate time period is approved by ODFW.
- 3) **Water Quality and Prohibited Activities:** The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water-quality standards. Permittee may not cause pollution of any waters of the state, or place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means, per ORS 468B.025(1). If the Department of Environmental Quality determines that pollution of waters of the state is occurring, DEQ shall notify OWRD of the violation and the water right may be restricted if the permittee fails to implement corrective actions as directed by the Department of Environmental Quality.
- 4) The applicant should contact DEQ (Kathy Jacobson: 541-687-7326) to determine if a 1200 C permit is required for construction.

ODFW Signature:



Print Name: Jason Brandt

ODFW Title: SW Hydro Coordinator – Umpqua Date: 12/6/19

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

Revised 10/4/12

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

R-88794

Land Use Information Form



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NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and **all** of the following apply:
 - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
 - b) The application involves a change in place of use only;
 - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; **and**
 - d) The application involves irrigation water uses only.

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

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Land Use Information Form



725 Summer Street NE, Suite A
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(503) 986-0900
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Applicant: MARC WILLIAMS
First Last

Mailing Address: 21700 NE WHITLORSE DR

DUNDÉE OR 97115 Daytime Phone: 503 550 7800
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:
3 South	3 West	23	SENE	609 & 610		<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" 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	
						<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:

Yamhill

B. Description of Proposed Use

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

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

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

Estimated quantity of water needed: _____ 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 Multipurpose Use

Briefly describe:

Build a pond

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): 502 of the Yamhill Co. Zoning Ord.

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.

Name: Kenneth P. Friday Title: P. D.
 Signature: [Signature] Phone: 503-434-7516 Date: 8/8/2019
 Government Entity: Yamhill County

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

Receipt for Request for Land Use Information

Applicant name: _____
 City or County: _____ Staff contact: _____
 Signature: _____ Phone: _____ Date: _____

WATERMASTER ALTERNATE RESERVOIR APPLICATION REVIEW SHEET

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

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

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

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

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

Application #: R- Applicant's Name: Marc Willcuts 3S3W23TL 609 & 610

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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:

Watermaster printed name: Joel Plahn

Watermaster signature:  Date: 7/26/2019

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

NOTE: This completed form must be returned to the applicant

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Applicant: MARC WILLIAMS First Last **OWRD**

Mailing Address: 21700 NE WHITLORSE DR

DUNDY City OR State 97115 Zip Daytime Phone: 503 550 7800

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						<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:

Yamhill

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

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 Allocation of Conserved Water
 Exchange of Water

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

Estimated quantity of water needed: _____ 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 Multipurpose Use

Briefly describe:

Build a pond

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See bottom of Page 3. →

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TL 609 Legal Description

Parcel 2 of Partition Plat 2016-12 recorded June 21, 2016 as Instrument No. 201609062, Deed and Mortgage Records, Yamhill County, State of Oregon.

SAVE AND EXCEPT the following:

A tract of land in Section 23, Township 3 South, Range 3 West, Yamhill County, Oregon, being a portion of Parcel 2 of Yamhill County Partition Plat 2016-12 and being more particularly described as follows:

Beginning at the southeast corner of said Parcel 2 of Partition Plat 2016-12; thence North 00°47'22" East 80.02 feet along the east line of said Parcel 2 to an iron rod; thence South 89°25'18" West 422.43 feet to an iron rod on the west line of said Parcel 2; thence South 00°37'00" East 80.00 feet to the southwest corner of said Parcel 2; thence North 89°25'18" East 420.47 feet to the point of beginning.

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Exhibit "A"

Real property in the County of Yamhill, State of Oregon, described as follows:

A tract of land in Section 23, Township 3 South, Range 3 West, Yamhill County, Oregon, being more particularly described as follows:

Parcel 3 of Yamhill County Partition Plat 2016-12.

TOGETHER WITH THE FOLLOWING DESCRIBED PORTION OF PARCEL 2 OF SAID Partition Plat 2016-12: Beginning at the southeast corner of said Parcel 2 of Partition Plat 2016-12; thence North 00°47'22" East 80.02 feet along the east line of said Parcel 2 to an iron rod; thence South 89°25'18" West 422.43 feet to an iron rod on the west line of said Parcel 2; thence South 00°37'00" East 80.00 feet to the southwest corner of said Parcel 2; thence North 89°25'18" East 420.47 feet to the point of beginning as shown by CS-13207.

P-20794