



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

May 28, 2020

Dear Applicant:

The Oregon Water Resources Department has received your application to store water in a reservoir under the Alternate Review process. Your application has been assigned file number **R-88822**. Please refer to this number when contacting the Department. Should you have any questions about your application, please contact the following Water Rights Specialist assigned to your application:

Lisa Graham, Water Rights Specialist	Phone: 503-986-0808
	Email: elisabeth.a.graham@oregon.gov

A description of the steps that are used for processing an application to stored water in a reservoir are shown on the reverse side of this letter.

Included with this letter is a Wetland Determination Request form provided by the Department of State Lands (DSL) Wetland Program to determine if wetlands or other regulated water bodies (such as creeks) are in the project area. Please complete and return the form to DSL.

Please note that your application is subject to review and comment from other state agencies and interested parties.

Sincerely,

Judy Ferrell
Customer Service Representative
Oregon Water Resources Department

cc: E Frank Schnitzer
File

Encl. - DSL Wetland Offsite Form

Water-Use Permit Application Processing Steps

Oregon Water Resources Department

Alternate Review Process for a Reservoir Applications:

After a completed application has been received by the Department, the Department must make public notice of the application within 60 days. Applications are noticed to the public every Tuesday and can be accessed from the Department's website: <https://www.oregon.gov/owrd>.

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 upon whether the proposed use causes injury to existing water rights or poses a significant detrimental impact to an existing fishery resource. All comments must be submitted within 60 days of the public notice.

Following the 60-day public comment period, the Department can issue a Final Order. Alternate Reservoir applications typically take between 3-5 months to process, depending upon the number of pending applications in the queue.

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. Also note that other permits may be required for any construction activities in waterways, wetlands, or riparian areas.



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

RECEIVED

MAY 26 2020

OWRD

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: Brian Scallon
First Last
 Mailing Address: 7861 Highbanks Road
Central Point Oregon 97502
City State Zip
 Phone: _____ 541-778-4492 _____
Home Work Other
 Fax: _____ E-Mail Address*: scallonb@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: E Frank Schnitzer
First Last
 Mailing Address: 43062 Shingle Mill Road
Lebanon Oregon 97355
City State Zip
 Phone: 541-259-1390 503-779-9384 _____
Home Work Other
 Fax: _____ E-Mail Address*: hammondcamp@hughes.net

* 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: Martin

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 stream Tributary to: Rogue River

C. County in which diversion occurs: Jackson

	For Department Use		
App. No. _____	Permit No. _____	Date _____	

D. Reservoir Location

Township (N or S)	Range (E or W)	Section	quarter/quarter	tax lot number
36S	2W	21	NE/NE	101

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: 4.0 Acre-feet = $\frac{\text{Average Length} \times \text{Average Width} \times \text{Average Depth}}{43,560}$

RECEIVED

MAY 26 2020

Is this project fully or partially funded by the American Recovery and Reinvestment Act? (Federal stimulus dollars) Yes No

OWRD

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

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:

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? 70 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.

DSL-Lauren Brown 503-986-5218

ODFW- Laura Street and Pete Samarin 541-826-8774

RECEIVED

MAY 26 2020

OWRD

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.

The existing diversion consists of an earthen embankment with a concrete spillway located within the historic channel. The spillway passes live flow and was active on April 16 and 17, 2019 during a wetland delineation mapping. The existing water right is for 4.2 acre-feet. This application requests an additional 4.0 acre-feet of capacity.

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: Brian Scallon

RECEIVED
MAY 26 2020

OWRD

1) Does the proposed reservoir have the potential to injure existing water rights?

NO YES

Explain: water is not available during month of November. Will need to pass flow during this month

2) Can conditions be applied to mitigate the potential injury to existing water rights?

NO YES

If YES, which conditions are recommended:

maintain outlet and staff gage

3) Did you meet with staff from another agency to discuss this application?

NO YES

Who:

Agency:

Date:

Who:

Agency:

Date:

Watermaster signature:



Date: 5/22/2020

WRD Contact:

Caseworker:

Water Rights Division, 503-986-0900 / Fax 503-986-0901

NOTE: This completed form must be returned to the applicant

ODFW Alternate Reservoir Application Review Sheet

OWRD

This portion to be completed by the applicant.

Applicant Name/Address/Phone/Email: Brian Scallon 7861 Highbanks Road, Central Point 541-778-4492

scallonb@gmail.com

Reservoir Name: Martin Source: unnamed trib to Rogue R Volume (AF): 4.0

Twp Rng Sec QQ: 36S,R2W 21 NE/NE Basin Name: Rogue 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 June through November 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.

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)

This application proposes to expand the size of an existing, permitted reservoir. ODFW has concluded the reservoir is outside of historical fish distribution for this un-named tributary of the Rogue River. However, the tributary provides flow to the Rogue River which supports populations of spring (sensitive) and fall Chinook salmon, Coho (threatened) salmon, summer (sensitive) and winter Steelhead, Pacific lamprey (sensitive), and coastal cutthroat trout. Numerous instream water rights and scenic flows exist downstream on the Rogue River and this reservoir should not impound water if the instream rights are not being met.

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)

fishmay

b51a. The period of use has been limited to December through May.

riparian

Inwater work shall be conducted between June 15 and September 15 unless otherwise coordinated with ODFW.

RECEIVED

MAY 26 2020

OWRD

ODFW Signature: 


Print Name: Peter Samarin

ODFW Title: Asst District Fish Biologist

Date: 6/4/2019

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

Use this menu to identify appropriate conditions to be included in the permit, and indicate the abbreviations on the review form:

fishpass: As required by ORS 509.585, a person owning or operating an artificial obstruction (AO) may not construct or maintain any AO across  waters of this state that are inhabited, or historically inhabited, by native migratory fish (NMF) without providing passage for NMF. A person owning or operating an AO shall, prior to construction, fundamental change in permit status or abandonment of the AO in any waters of this state, obtain a determination from ODFW as to whether NMF are or historically have been present in the waters. If ODFW determines that NMF are or historically have been present in the waters, the person owning or operating the AO shall either submit a proposal for fish passage to ODFW or apply for a waiver or exemption. Approval of the proposed fish-passage facility, waiver, or exemption must be obtained from the department prior to construction, permit modification or abandonment of the AO. Approved fish-passage plans, waivers, and exemptions shall maintain adequate passage of NMF at all times (ORS 509.601) as per the approved plan, waiver or exemption.

fishself: The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional prior to diversion of any water. Permittee shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state's criteria or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.

fishapprove: The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

fishdiv33: If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

fishmay: Notwithstanding that ODFW has made a determination that fish screens and/or by-pass devices are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish screening and by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.

b52 Water may be diverted only when Department of Environmental Quality sediment standards are being met.

b5 The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.

b51a The period of use has been limited to _____ through _____.

b57 Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point.

b58 Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

futile call: The use of water allowed herein may be made only at times when waters from the (NAME OF SURFACE WATER) would not otherwise flow into a tributary of the _____ River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

riparian: If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

wq: The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

fence: The stream and its adjacent riparian area shall be fenced to exclude livestock.

biv: Water must be diverted to a trough or tank through an enclosed water delivery system. The delivery system must be equipped with an automatic shutoff or limiting flow control mechanism or include a means for returning water to the stream source through an enclosed delivery system. The use of water shall not exceed 0.10 cubic feet per second per 1000 head of livestock.

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): 100 6.2.1 / 150 8.6

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
		<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.

*Irrigation of pastures to support agricultural use - raising cattle - accessory to the residential use.
Riparian vegetation retention is required.*

Name: Francisco M. Pizarro del P Title: Planner III

Signature: [Signature] Phone: 241-774-6913 Date: 04.02.2020

Government Entity: Jackson County Development Services

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: _____

RECEIVED

MAY 26 2020

OWRD



439-20-00481-ZON

03/25/2020

Land Use Compatibility

36-2W-21-101

ZONING: Open Space Reserve

PROCESS: Type I Permit

ASSIGNED STAFF:

SITE ADDRESS: 7861 HIGH BANKS RD

RECORD NO: 439-20-00481-ZON

PROJECT NAME: LUCS

RECEIVED DATE: 03/25/2020

Owners

SCALLON BRIAN ET AL
7861 HIGHBANKS RD
CENTRAL POINT, OR 97502-9434

Record Detail Description

OWRD Water Rights

Contacts

SCALLON BRIAN ET AL
7861 HIGHBANKS RDCENTRAL POINT, OR
97502-9434
brian@brothersconstructionllc.org
(541) 778-4492