



**Oregon**  
Kate Brown, Governor

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

File

April 14, 2016

WINDHURST ROAD WATER CORPORATION  
PO BOX 503  
BANDON, OR 97411

REFERENCE: Application S-69654 / Permit S-53703

Dear Permit Holder:

On January 9, 2015, the Department issued a Final Order approving an Extension of Time for Permit S-53703. The Final Order contained a condition to submit a progress report to the Department by October 1, 2016.

This letter is being sent to you as a reminder the progress report is due on October 1, 2016.

For your convenience, I have enclosed a **Progress Report Form** for you to fill out and submit. In order to maintain the ability to continue developing water under this permit, you should submit your progress report no later than October 1, 2016.

As per your most recent extension, the date by which water must be applied to full beneficial use within the terms and conditions of your permit is October 30, 2019.

***Failure to submit written progress reports will most likely result in any future extensions being denied.***

If you have any questions concerning this matter, you may contact me by telephone at (503) 986-0825.

Sincerely,

Corey A Courchane  
Extensions  
Water Rights Services Division

Enclosure

cc: Application S-69654  
Watermaster District 19 – Greg Wacker

# Extension PFO Checklist for Other than Muni or Quasi-Municipal

Water Use Permits  
(OAR 690-315-0010 through OAR 690-315-0060)

Application: S- 69654 Permit: S- 53703 Permit Amendment? No  Yes  T- \_\_\_\_\_  pending  approved

Permit Holder's Name: Windhurst Road Watering Corp

Permit Holder's Mailing Address: P.O. Box 503, Bandon OR 97411 email \_\_\_\_\_

Phone Number: 541-347-3062

POD Location: Township SEE ATTACHED Range \_\_\_\_\_ Section \_\_\_\_\_ 1/4 \_\_\_\_\_

Drainage Basin: 17 County: Coos Watermaster District: 19 Watermaster: Mitch Lewis

Date Permit was issued: 10/10/2000 Priority Date: 9/6/1988 Date of PN: 9/30/2014

Source: Bill Creek, a tributary of Bear Creek, and legally stored water under permit R-69654

Use: cranberry ops on 162.4 acres, agricultural use on 27.7 acres, and supplemental canberry operations on 18.1 acres

"Q": 614 AF of stored water...

Orig "A" Date: 10/10/2001 Orig "B" Date: 10/1/ Orig "C" Date: 10/1/2005

Extension request rec'd: \_\_\_\_\_ Last Authorized "B" Date: 10/1/ Last Authorized "C" Date: 10/1/2014

Request Number (1, 2, 3...): 2 Proposed "B" Date: 10/1/ Proposed C Date: 10/1/2019

**Conditions of Permit:**

Condition Met?	Condition Not Met?	Permit Condition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	STAFF gage downstream
<input checked="" type="checkbox"/>	<input type="checkbox"/>	weir + <sup>staff</sup> gage at POP
<input checked="" type="checkbox"/>	<input type="checkbox"/>	totalizing flow meter
<input checked="" type="checkbox"/>	<input type="checkbox"/>	fish screen
<input checked="" type="checkbox"/>	<input type="checkbox"/>	STAFF <del>agg</del> gage ponds

**Factors to consider in determining "Reasonable Diligence" [OAR 690-315-0040(3)]:**

Yes No

- Work was accomplished within the time allowed in the permit or previous extension
- Water right permit holder conformed with the permit or previous extension conditions
- Financial investments were made toward developing the beneficial water use.

• Amount Invested to date: \$ 1,780,000 <sup>250,000</sup> Estimated Remaining Cost: \$ 48,000 <sup>24,000</sup>

- Beneficial use made of the water during the permit or previous extension time limits

• Permit holder has beneficially used 3  cfs  gpm  af of the total permitted quantity of water on 208.7 acres

GW REVIEW: Y  N  *MAA*

MITIGATION REVIEW: Y  N

Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes  No

**Determination of the market and the present demand for water or power to be supplied:**

Identify the closest surface water or localized water basin. \_\_\_\_\_

Ground Water Permits: Is the POA located...

Surface Water Permits: Is the POD located...

Yes No

- above a state scenic waterway? Name \_\_\_\_\_ Source: OWRD "Areas Above State Scenic Waterways" Map
- within a stream segment designated as a federal wild and scenic river? Source: www.rivers.gov/wildriverslist.html
- within a sensitive, threatened or endangered species area Source: "/gisdata/dev/projects/salmon/div33map.aml"
- within a critical or limited Ground Water Area? Name of area \_\_\_\_\_
- within a Withdrawn Area? Name of area \_\_\_\_\_
- in a waterbody listed on the DEQ Section 303(d) List of Water Quality Limited Areas? Date added to list \_\_\_\_\_
- within an area ranking low / moderate / high / highest for stream flow restoration needs Source: OWRD "Streamflow Restoration Needs" Maps (by region)

**Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?**

Yes... "Good Cause" can be found.  Approval of Extension Request

No ... "Good Cause" cannot be found.  Denial of Extension Request

**Conditions to be included in Extension PFO (if applicable)? Yes  No**

(NOTE: Check the file record for documentation to add a condition(s) at the extension stage.)

5-year Progress Report Checkpoints (Years: \_\_\_\_\_)

Other: \_\_\_\_\_

**Footnote regarding Claim of Beneficial Use. Choose the appropriate language below and insert as a footnote in the PFO:**

**COBU Requirement - Surface/Ground Water - on or prior to July 9, 1987**

"For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625."

**COBU Requirement - Surface Water - post July 9, 1987**

"Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

**COBU Requirement - Ground Water - post July 9, 1987**

"Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

**NOTES:**

**Extension "PFO" Dates**

**Mailing / Issuance Date:** \_\_\_\_\_ **Protest Deadline Date:** \_\_\_\_\_

**Reviewer's Name:** M. Bamberger **Date:** 9-29-14

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SALEM, OR

STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION  
P.O. BOX 503  
BANDON, OREGON 97411

(541)347-3062

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-69654

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK, AND LEGALLY STORED WATER UNDER PERMIT R-12928

PURPOSE OR USE: CRANBERRY OPERATIONS ON 162.4 ACRES, AGRICULTURAL USE ON 27.7 ACRES, AND SUPPLEMENTAL CRANBERRY OPERATIONS ON 18.1 ACRES

MAXIMUM RATE/VOLUME ALLOWED: 614.0 ACRE-FEET OF STORED WATER; MAXIMUM INSTANTANEOUS DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED UNDER PERMIT R-12928, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW.

PERIOD OF USE: NOVEMBER 1 THROUGH MAY 31 FROM NATURAL FLOW AND YEAR ROUND FROM STORED WATER ONLY

DATE OF PRIORITY: JUNE 30, 1988

POINT OF DIVERSION LOCATION: BILL CREEK - NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH & 2480 FEET EAST FROM W1/4 CORNER, SECTION 3; STORED WATER FROM 23 RESERVOIRS DESCRIBED IN PERMIT R-12928.

- 1 Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow

Application S-69654

Water Resources Department

Permit 53703



measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

- 2 Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing R-69708, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for R-69708, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for R-69708 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<sup>1</sup> CRANBERRY	<sup>2</sup> AGRICULTURE	<sup>3</sup> SUPPLEMENTAL CRANBERRY
NE 1/4 NE 1/4	5.9 ACRES		4.3 ACRES
NW 1/4 NE 1/4	5.0 ACRES		
SE 1/4 NE 1/4	4.3 ACRES		0.7 ACRE
SECTION 32			
NW 1/4 NW 1/4	25.0 ACRES		
SW 1/4 NW 1/4	18.0 ACRES		
SE 1/4 NW 1/4	7.0 ACRES		
SECTION 33			
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.			
NW 1/4 SW 1/4	7.0 ACRES		
SECTION 3			
NW 1/4 SW 1/4	15.0 ACRES	6.0 ACRES	
SW 1/4 SW 1/4	1.2 ACRES		13.1 ACRES

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Application S-69654

Water Resources Department

Permit 53703

	<sup>1</sup> CRANBERRY	<sup>2</sup> AGRICULTURE	<sup>3</sup> SUPPLEMENTAL CRANBERRY
SE 1/4 SW 1/4	15.2 ACRES		
NE 1/4 SE 1/4	12.0 ACRES		

SECTION 4

NE 1/4 NE 1/4	7.0 ACRES	0.4 ACRE
NW 1/4 NE 1/4	1.2 ACRES	0.1 ACRE
SW 1/4 NE 1/4		2.0 ACRES
SE 1/4 NE 1/4	8.2 ACRES	3.9 ACRES
NE 1/4 SE 1/4	6.0 ACRES	5.0 ACRES
SE 1/4 SE 1/4	0.2 ACRE	

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SECTION 5

NE 1/4 NE 1/4	4.7 ACRES	3.0 ACRES
NW 1/4 NE 1/4	16.5 ACRES	
SW 1/4 NE 1/4	3.0 ACRES	7.3 ACRES

SECTION 9

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

<sup>1</sup> - Use of water is for primary irrigation and agriculture use for Cranberry Operations.

<sup>2</sup> - Use of water is for primary agriculture use and supplemental Irrigation use for Cranberry Operations.

<sup>3</sup> - Use of water is for supplemental agriculture use and irrigation use for Cranberry Operations.

Measurement, recording and reporting conditions:

A. 3 Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion from Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

B. The permittee shall allow the watermaster access to the meter; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

- 4 At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.
- 5 Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

#### STANDARD CONDITIONS

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

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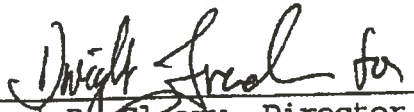
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The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2005. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued October 10, 2000

  
Paul R. Cleary, Director  
Water Resources Department

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Application S-69654  
Basin 17

Water Resources Department  
Volume 3 BEAR CREEK AND MISC

Permit 53703  
DISTRICT 19





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

## Application for Extension of Time for a Water Right Permit (Non-Municipal / Non-Quasi-municipal Water Use)

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

**I, Windhurst Road Watering Corporation**

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

**the holder of:** Application Number S-69654 Permit Number S-53703 [OAR 690-315-0020(3)(b)]

**\*\*A separate application must be submitted for each permit as per OAR 690-315-0020(2). \*\***

88860 Windhurst Lane  
 MAILING ADDRESS

97411  
 CITY, STATE, ZIP

(541) 347-2295  
 PHONE

NA  
 E-MAIL ADDRESS

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**X do hereby request that** the time to apply water to full beneficial use under the terms and conditions of the permit, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019.

**Please Note.** If the permit **does** specify a date when **construction** must be **completed**, you should request to extend both the time to apply water to full beneficial use **and** to complete construction. These dates are typically found on the permit above the signature of the Director.

**and**

**do hereby request that** the time to complete construction of the water system, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019

**Sign after completing the entire application, questions 1-11.**

I am the permit holder, or have attached to this application written authorization from the permit holder, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension. I have completed the entire application.

Donny A. Hoga  
 Signature

9/23/14  
 Date

Printed Name/Title Chairman

**MAIL COMPLETED and SIGNED APPLICATION with the \$575 STATUTORY FEE TO:**

Water Resources Department  
Attn: Water Right Permit Extensions  
725 Summer Street NE, Suite A  
Salem, Oregon 97301

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Submit the following items with your Application for Extension of Time:

- **The signed and completed Application for Extension of Time.**
- **\$575 check to OWRD or Oregon Water Resources Department**
- **All supporting documentation and/or evidence referenced in the application.**

Reference materials needed to complete this Application:

- **Water right permit.** A copy of the water right permit can be downloaded from the Department's Website at <http://www.wrd.state.or.us> (using the link to the Water Rights Information System (WRIS)). A copy of the permit may be requested from the Water Rights Division at 503-986-0801 (copy fees will apply).
- **Documentation** which demonstrates compliance with permit conditions (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Helpful information for completing this Application:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form.** The form *Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits* is at the following link: <http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml#other>
- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the permit terms & conditions.
- The attached *Instructions for Completing an Application for Extension of Time for a Water Right Permit* will help you answer each question on the application. If, after reading the instructions, you need assistance, please call the Extensions Specialist at 503-986-0900.
- Permit extensions are evaluated under OAR Chapter 690, Division 315, which may be viewed at: <http://www.wrd.state.or.us/OWRD/LAW/index.shtml>. Please note that OWRD may require additional information, if necessary, to evaluate the application per OAR 315-0020(3)(n).
- OWRD will review applications received for completeness and will return incomplete or deficient applications per OAR 690-315-0040(1)(a) to the applicant.



## Questions to Complete this Application for Extension of Time

Please see the instruction sheet to help you answers these questions.

[OAR 690-315-0020(3)(d)]

1. Did the “actual construction” of the water system/well drilling begin within the time specified in the permit?  Yes  No  N/A, if not specified in this permit

Date “actual construction” began is: 1960

Describe details of construction: Manicke reservoir #4 constructed

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[OAR 690-315-0020(3)(e)(A)]

**2-A. Please Describe how you have complied with each standard and special condition in the original permit [and, if applicable, conditions contained in any order approving a permit amendment and/or order approving a prior extension of time].**

*TIP: The instruction sheet explains which typical conditions must be addressed here.*

**Condition Number:** Hand-number each condition on a copy of your permit (and, if applicable, any permit amendment and/or prior extension). Include a copy of your hand-numbered permit.

**CHART-A**

Condition Number	Date Satisfied	Describe How Permit Condition Has Been Satisfied
1	2000	STAFF GAGE INSTALLED ON BEAR CR. ON BRIDGE DOWNSTREAM FROM CONFLUENCE OF BILLS CR.
2	2009	WEIR 7 STAFF GAGE INSTALLED AT POD FROM BILLS CREEK
3	2001	TOTALIZING FLOW METER INSTALLED AT POD FROM BILLS CREEK, REPORTS SUBMITTED BEGINNING FEB. 2002
4	2002	APPROVED FISH SCREEN INSTALLED AT POD FROM BILLS CREEK
5	2002	STAFF GAGES INSTALLED IN MOST PONDS, INCLUDING WINDHURST RESERVOIR

**2-B. If you have NOT complied with all applicable conditions, explain the reasons why and indicate with a date certain (in the near future) when compliance will occur.**

**CHART-B**

Condition Number	Date Will Comply	Explain Why Each Permit Condition Has NOT Been Satisfied
5	2014	INSTALL STAFF GAGES IN SCHERER AND HAGA PONDS AFTER 2014 HARVEST. A PORTION OF THE SCHERER FARM CHANGED HANDS TO BIG HORN OWL DURING THE LAST EXTENSION PERIOD. SCHERER HAS POSSESSION OF HAGA'S STAFF GAGES AND KNOWING OF APPLICATION FOR EXTENSION OF TIME WILL BE INSTALLING THEM AFTER THE 2014 HARVEST.

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[OAR 690-315-0020(3)(e)]

**3-A. Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the original permitted time period.**

CHART-C (below) must be completed for all Application for Extension of Time requests. *Use chronological order.*

**CHART-C**

DATE	LIST & DESCRIBE WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST*
	SEE ATTACHMENT A	
DATE	LIST & DESCRIBE WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED and PRIOR TO DATE FOR COMPLETE APPLICATION OF WATER	COST*
	Date the permit was signed - find date above signature on last page of permit.	
	Date the permit specified "Actual Construction Work" shall begin ("A-Date") -not all permits contain this date.	
	Date the permit specified complete application of water to the use shall be made ("C-Date") - all permits contain this date.	
DATE	LIST & DESCRIBE WORK ACCOMPLISHED AFTER DATE FOR COMPLETE APPLICATION OF WATER UP TO NOW Complete if this is your first request for extension of time.	COST*
<b>*Total Cost for Chart-C</b>		

**\* If exact cost is not known, please provide your best estimate.**

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**IF this is** your first Application for an Extension of Time, write NA in Chart D below and proceed to question 4 at the bottom of this page.

**3-B) Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the most recent extension period.**

If this **is not** your 1st Application for Extension of Time request, fill out CHART-D below in addition to CHART-C above. *Use chronological order.*

**CHART-D**

<b>DATE</b>	<b>LIST AND DESCRIBE WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD</b>	<b>COST*</b>
2005	"Extended From" date for complete application of water used in the 1 <sup>st</sup> (or the most recent) Application for Extension of Time.	
2009-2014	MANICKE- 50% COMPLETION OF EXTENSION TO ALL PONDS	\$10,000.00
2009-2014	SCHERER - COMPLETED RES. #7, PURCHASED STAFF GAGES AND WILL BE INSTALLED AFTER 2014 HARVEST SEASON	\$12,000.00
2009-2014	HAGA - PURCHASED STAFF GAGES AND WILL INSTALL AFTER 2014 HARVEST SEASON	\$10,000.00
2009-2014	RICHERT - WORKED ON CONSTRUCTION OF RES. #1 & #2, PURCHASED PUMPS AND PLUMBING	\$14,000.00
2014	FINAL ENGINEERING CERTIFICATION HAS BEEN COMPLETED	\$3,500.00
2014	"Extended To" date for complete application of water resulting from the 1 <sup>st</sup> (or the most recent) Application for Extension of Time.	
<b>DATE</b>	<b>LIST AND DESCRIBE WORK ACCOMPLISHED AFTER THE LAST EXPIRED EXTENSION PERIOD UP TO NOW</b>	<b>COST*</b>
<b>Total Cost of Chart-D</b>		<b>\$49,500.00</b>

\* If exact cost is not known, please provide your best estimate.

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[OAR 690-315-0020(3)(f)]

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4. **Cost of project to date: \$1,780,050.00**



(The total combined cost from CHART-C and CHART-D)

[OAR 690-315-0020(3)(e)(B)]

**5. Provide evidence of the maximum rate (or duty, if applicable) of water actually diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.**

*TIP: Report the rate used to date in the same units of measurement as specified in the permit. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.*

**5-A) For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):**

Maximum measured rate used to date = 3 cfs (cubic feet per second)

or

Maximum measured rate used to date = \_\_\_\_\_ gpm (gallons per minute)

or

Acre-feet stored to date = \_\_\_\_\_ AF

**5-B) For Ground Water Permit Extensions (e.g. G-XXXX):**

*TIP: Include information from ALL wells that pertain to this permit including wells not currently being used.*

**CHART-E**

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment? (See 5-C below)	Maximum measured rate used from this well - - under this permit only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
		Yes <input type="checkbox"/> No <input type="checkbox"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>		Yes <input type="checkbox"/> No <input type="checkbox"/>	- -
		Yes <input type="checkbox"/> No <input type="checkbox"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>		Yes <input type="checkbox"/> No <input type="checkbox"/>	- -
		Yes <input type="checkbox"/> No <input type="checkbox"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>		Yes <input type="checkbox"/> No <input type="checkbox"/>	- -
		Yes <input type="checkbox"/> No <input type="checkbox"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>		Yes <input type="checkbox"/> No <input type="checkbox"/>	- -
Total measured rate from all wells utilized under this permit								

**5-C) If the drilled location of a well is not authorized on this permit, please specify its location below, or provide a map showing its location. Has or will a Permit Amendment Application been/be filed? Yes  No**

*If a Permit Amendment Application has been filed: Transfer No. T-\_\_\_\_\_*

Well # \_\_\_\_\_: Actual location: \_\_\_\_\_

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Well # \_\_\_\_: Actual location: \_\_\_\_

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[OAR 690-315-0020(3)(e)(C)]

6. Provide the total number of acres actually irrigated to date under this permit (if any).

Surface Water Permits: I have applied water to 208.2 acres for irrigation to date.

Ground Water Permits: I have applied water to \_\_\_\_\_ acres for irrigation to date.

Please specify which wells are being utilized for this irrigation.

Well # \_\_\_\_\_ Acres \_\_\_\_\_ Well # \_\_\_\_\_ Acres \_\_\_\_\_

Well # \_\_\_\_\_ Acres \_\_\_\_\_ Well # \_\_\_\_\_ Acres \_\_\_\_\_

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[OAR 690-315-0020(3)(j)]

7. Provide a summary of future plans and a schedule to complete construction of the water system, and/or apply water to full beneficial use under the permit terms and conditions.

CHART-F

APPROXIMATE DATE RANGE (projected)	LIST & DESCRIBE WORK TO BE ACCOMPLISHED TO COMPLETE WATER DEVELOPMENT (projected)	ESTIMATED COST (projected)
2014-2019	MANICKE - EXTENSION TO 50% OF PONDS TO FINISH	\$10,000.00
2014-2019	SCHERER - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, ENLARGE RES. #1 & #2	\$10,000.00
2014-2019	HAGA - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, COMPLETE BEE STING RES.	\$10,000.00
2014-2019	RICHERT - FINISH CONSTRUCTION OF RES. #1 & #2, INSTALL PUMPS AND PLUMBING	\$18,000.00
Year: 2019	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
8.	<b>Estimated remaining total cost to complete the water development:</b> [OAR 690-315-0020(3)(g)]	<b>\$48,000.00</b>

[OAR 690-315-0020(3)(h)]

9. Describe the reasons why the water development was not constructed, and/or water was not beneficially used within permit time limits. Provide supporting information for the reason(s) that best fits your circumstances (A, B, C or D).

9-A) Is the project of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit? If yes, describe.

THIS IS A VERY LARGE AND EXPENSIVE PROJECT THAT WAS PLANNED TO BE PHASED IN OVER A LONGER PERIOD OF TIME THAN ALLOWED BY THE PERMIT.

- 9-B) Did the financial resources needed to develop the project preclude completion of the project within authorized time frames? If yes, describe.

FINANCIAL RESOURCES ARE LIMITED DUE TO THE UNSTABLE PRICE OF CRANBERRIES. STILL RECOVERING FROM MARKET CRASH.

- 9-C) Did good faith attempts to comply with other agency permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delay completion of the project? If yes, describe.

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NO

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- 9-D) Have other unforeseen events delayed full development of the water system and use of water within the authorized time frames? If yes, describe.

ONE OF THE MAIN PARTNERS OF WINDHURST ROAD WATERING CORPORATION PASSED AWAY IN 2014.

[OAR 690-315-0020(3)(k)]

10. **Justify the time requested to complete the project and/or apply the water to full beneficial use.** Your justification should combine information from your answers from Questions 2-B, 7, 8, and 9 of this Application for Extension of Time. Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

INSTALL STAFF GAGES IN SCHERER AND HAGA PONDS. MANICKE HAS 50% OF THE EXPANSION TO PONDS LEFT TO FINISH. SCHERER WILL BE INSTALLING STAFF GAGES AFTER THE 2014 HARVEST AND ENLARGING RESERVOIRS #1 & #2. A PORTION OF THE SCHERER FARM WAS SOLD TO BIG HORN OWL WHO IS A NEW OPERATOR AND NEEDS TIME TO ENLARGE SCHERER RESERVOIRS # 1 & #2. HAGA WILL INSTALL STAFF GAGES AFTER THE 2014 HARVEST AND WORK ON COMPLETING BEE STING RESERVOIR WHEN EQUIPMENT BECOMES AVAILABLE. THIS PROJECT WAS VERY LARGE AND EXPENSIVE AND WAS TO BE PHASED IN OVER A LONGER PERIOD OF TIME THAN THE PERMIT ALLOWED. FINANCIAL RESOURCES ARE LIMITED DUE TO THE UNSTABLE PRICE OF CRANBERRIES.

CWRE WILL BE MONITORING PROGRESS AND REQUESTING THAT THE PROJECT BE FINISHED WITHIN THE AMOUNT OF TIME REQUESTED.

11. **Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.**

WE ARE UNABLE TO SEPARATE COSTS FROM THIS PERMIT AN PERMIT R-12928. PLEASE CONSIDER BOTH PERMITS TOGETHER. CWRE WILL BE MONITORING PROGRESS TO ENSURE COMPLETION OF PROJECT IN A TIMELY MANNER.

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Thank you for submitting a complete and accurate application. Remember to sign the front page. If you have questions or need assistance, please ask to speak with the Department's Extension Specialist by calling 503-986-0900 during business hours.

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INSTRUCTIONS FOLLOW ON NEXT PAGE

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## Instructions for Completing an Application for Extension of Time For Water Right Permit

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The following instructions are numbered to correspond with the APPLICATION FOR EXTENSION OF TIME. Each question is shown in **BOLD**, followed by guidance that may help you respond to the question. When reviewing these instructions, it will be helpful to have a copy of your water right permit at hand.

If needed, a copy of the water right permit can be downloaded from the Department's Website at <http://www.wrd.state.or.us> (find the link to the Water Rights Information System (WRIS)). Or, a copy of the permit (or other documents) may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).

### **Signature Box:**

The application must be signed by the permit holder of record, or an authorized agent of the permit holder of record.

If there are multiple permit holders of record for a single permit, only one permit holder of record needs to sign the extension application.

If you are not the permit holder(s) of record, but should be, you will need to request an assignment of the water right permit into your name(s), and provide the complete application for assignment, the statutory fee of \$85, and any other supporting documentation necessary to complete the assignment.

If the prior permit holder is available for a signature you may request an assignment using the form available at this link:

[http://www1.wrd.state.or.us/pdfs/req\\_assign.pdf](http://www1.wrd.state.or.us/pdfs/req_assign.pdf)

If the prior permit holder is absent, you may request an assignment by proof of land ownership using the form available at this link:

[http://www1.wrd.state.or.us/pdfs/req\\_assign2.pdf](http://www1.wrd.state.or.us/pdfs/req_assign2.pdf)

### **Numbered Questions:**

- 1. Did the "actual construction" of the water system /well drilling begin within the time specified in the permit? [yes/no/NA]**

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Date "actual construction" began is: \_\_\_\_\_

Describe details of construction: \_\_\_\_\_

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The following information will help you answer these questions.

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**Actual Construction** - any physical work performed toward completion of the water system which demonstrates the water right permit holder's good faith and intention to complete the



water development with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, or surveying. OAR 690-315-0020(3)(d)(A)and(B).

Each water right permit contains specific dates by which permit holders are to have completed a certain stage of development of the right. Generally, these dates appear toward the end of a permit. Among the dates that may be cited are the following:

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A. **A-date:** Actual construction work shall begin on or before [date certain];

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B. **B-date:** Construction shall be completed on or before [date certain];

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C. **C-date:** Complete application of the water shall be made on or before [date certain]

For convenience, these are often referred to as the “A-date”, “B-date”, and “C-date”, respectively. Not all permits will include all three dates. Some newer permits may not include a “B-date,” and even more recent permits may not include an “A-date”. However, all permits should include a “C-date.”

By statute, if the “A-date” is specified in a permit, a permit extension cannot be granted when there is no evidence of actions taken to begin **actual construction** by that date” with a few exceptions (permits for municipal use or projects requiring federal hydropower licenses). Permit extensions may be granted for both the B-date and C-date.

If the permit specifies an “A-date” it is very important to have written confirmation in the Department’s official water right file that **actual construction** began on or before that “A-date”. In submitting such confirmation, give dated details of all **actual construction** work completed prior to the “A-date” stipulated in the permit.

The beginning of actual construction for a ground water permit can usually be verified on a well log; use the “Work started” date listed on the well log. Well Logs can be accessed through the Department’s Website at [http://apps2.wrd.state.or.us/apps/gw/well\\_log/Default.aspx](http://apps2.wrd.state.or.us/apps/gw/well_log/Default.aspx)

2. *Permits typically contain standard or special conditions that must be satisfied to lawfully develop and use permitted water.*

2-A) **Describe how you have complied with each condition contained in the original permit [and, if applicable, each condition contained in any order approving a permit amendment and/or a final order approving a prior extension of time]. Include the date when the condition was satisfied.**

Depending on the vintage of the water right permit issued by OWRD, the location of the conditions on the permit may vary. Most, but not all, permits issued before 1990, did not include conditions. If these permits contained conditions they would generally appear on the permit just above the State Engineer’s or Water Resources Director’s signature. In the early 1990’s conditions became more common. Conditions associated with the point of diversion or



point of appropriation might be listed immediately following the description of the point of diversion or appropriation. Conditions associated with the place of use, might be listed immediately following the description of the place of use. From the mid-1990's to present, conditions may be listed under separate subtitles in the permit such as "Measurement, Recording, and Reporting Conditions" or "Standard Conditions."

Conditions may have been added to the permit as result of an approved Permit Amendment or a Final Order approving a prior extension of time. These added conditions are binding on the original permit, and must also be also addressed in this extension request.

Conditions requiring a response in the extension of time application include those which:

- Stipulate a specific date by which the permit holder was to have accomplished a specific action, such as a condition that requires plans and specifications for a reservoir, a groundwater monitoring plan or some other document which "...shall be submitted...within (for example) *two* years of permit issuance."
- Are triggered by the use of water, but do not stipulate a specific date. These conditions represent a milestone in development of the project and use of water, such as the permit holder "shall install...a water meter or other suitable measuring device approved by the Director...before any use of water begins." Another common condition triggered by the use of water is that "fish screens are to be installed according to Oregon Department of Fish and Wildlife specifications."

Any supporting documentation submitted to demonstrate compliance with time-sensitive permit conditions or any conditions from prior permit extension(s) must be clearly referenced and may include, but is not limited to: well construction logs; static water level measurement reports, annual water use reports; and/or a plan to monitor the effect of water use on ground water aquifers utilized under the permit.

*If needed, you may contact the Department for assistance in identifying and/or interpreting which conditions in the water permit are pertinent to the extension application.*

In responding to question 2-A) on the application:

- Step (1) Hand-number each condition on a copy of your permit. Refer to each condition in Chart-A by this number (place the number in the column "**Condition Number**"). Submit the hand-numbered copy of the permit along with the application.
- Step (2) List all pertinent permit conditions in Chart-A, and explain how you have complied with them ("**Describe How Permit Condition Has Been Satisfied**").
- Step (3) Indicate the date the condition was met ("**Date Satisfied**").
- Step (4) Repeat steps (1), (2), and (3) for any conditions contained in any order approving a permit amendment and/or prior final order for an approved extension of time.

**2-B) If you have NOT complied with all applicable conditions, explain the reasons why**

**and indicate a date certain, when, in the near future, you will be in compliance.**

If a permit holder is not in compliance with time-sensitive conditions, OWRD may take one of three actions:

1. Suspend processing of the application until the permit holder complies with them; or
2. Establish time certain performance deadlines by which the conditions must be complied with and include them as conditions on the extension order; or
3. Deny the permit extension.

**NOTE:** If you are considering applying for a permit extension and you **are not** in compliance with time-sensitive conditions, you may want to hold off filing the extension application until you have complied with the conditions. If you are not in compliance, but wish to proceed with the extension application, you should explain how, and the dates by which, you will comply with the conditions in Chart-B. If the extension is allowed, OWRD will likely not grant much time (less than one year) for the permit holder to comply with time-sensitive conditions.

In responding to question 2-B) on the application:

Step (1) Hand-number each condition on a copy of your permit. Refer to each condition in Chart-B by this number (place the number in the column “**Condition Number**”). Submit the hand-numbered copy of the permit along with the application.

Step (2) List all pertinent permit conditions in Chart-A, and explain why you have not complied with them (“**Explain Why Each Permit Condition Has NOT Been Satisfied**”).

Step (3) Indicate the date the condition will be met (“**Date Will Comply**”).

Step (4) Repeat steps (1), (2), and (3) for any conditions contained in any order approving a permit amendment and/or prior final order for an approved extension of time.

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**3-A. Provide evidence of physical progress made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-C); and if applicable, within the time period of the most recent extension granted (CHART-D).**

**Permitted Time Period** - period of time between the date when the permit was signed *and* the date specified in the permit for complete application of water

**Time Period of the Previous Extension**

*For 2nd Application for Extension of Time* - period of time between the date specified in the permit for complete application of water and the new “extended to date” for complete application of water specified in the 1st approved extension.

*For 3<sup>rd</sup>, or 4<sup>th</sup>, or . . . n<sup>th</sup>, Application for Extension of Time* - period of time between the “extended from date” for complete application of water and the “extended to date” for complete application of water specified in the most recently approved extension.

**CHART-C (below) must be completed for all Application for Extension of Time requests. Use chronological order.**

Chart-C must be filled out by all applicants regardless of how many extensions have been granted in the past. List all materials and equipment purchases made within the applicable time period, the system components installed and components brought into use within the time period. Identify costs by each line item to assist in responding to Question 4 on the application for extension.

**3-B) Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the most recent extension period.**

If this is not your 1st Application for Extension of Time request, fill out CHART -D below (in addition to CHART-C above). Use chronological order.

Chart-D must be filled out by all applicants who have been granted an extension in the past (that is, this is your 2<sup>nd</sup>, 3<sup>rd</sup>, or 4<sup>th</sup>, etc. request) List all materials and equipment purchases made within the applicable time period, the system components installed and components brought into use within the time period. Identify costs by each line item to assist in responding to Question 4 on the application for extension.

**4. Cost of project to date \_\_\_\_\_.**

Indicate the amount invested in developing the water use system to date. This will be a total of the costs indicated on Chart-C and Chart-D from Question 3. If exact cost is not known, provide your best estimate.

**5. Provide evidence of the maximum rate (or duty, if applicable) of water actually diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.**

A permit authorizes a specific rate of water that may be used within the terms and conditions of the permit. (For example a permit may authorize the use of 1.5 cubic feet per second (cfs) of water for irrigation of 60 acres. In this example 1.5 cfs is the specified authorized rate in the permit). The Department is asking you to report the portion of the full authorized rate you have beneficially used to date. (In this example, if a maximum of 30 acres has been placed under irrigation, the portion of the rate beneficially used to date would (likely) be 0.75 cfs).

**5-A) For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):**

Surface water permits are those where the source of water is a river, stream, lake, pond, or reservoir, etc. Report the rate (not the volume) of water you are beneficially using under this permit in cubic feet per second (CFS) or gallons per minute (GPM). If you are using stored water under a reservoir permit (e.g. R-XXXX), then indicate the volume used – which is reported in acre-feet (AF).

**5-B) For Ground Water Permit Extensions (e.g. G-XXXX):**

Ground water permits are those where the source of water is a well. Some permits authorize the use of water from more than one well. Fill out Chart-E with information for a single well, or if applicable, for multiple wells. Give information about all the well(s) listed on your permit, even if not yet drilled; or if drilled, even if it is not being used for some reason.

- 1<sup>st</sup> Column: For each well authorized on the permit, indicate the Well # or the well name that is listed on the permit.
- 2<sup>nd</sup> Column: If naming system you use is different than what is listed on the permit, indicate the Well # or well name you use for each of the wells.
- 3<sup>rd</sup> Column: Enter a yes or no for each well listed on the permit, indicating whether or not it has been drilled yet.

The following columns relate only to wells which have been already drilled.

- 4<sup>th</sup> Column: Enter the Well Log Number for each well. Typically this is a four letter prefix (of the county) followed by 3 to 5 digits.
- 5<sup>th</sup> Column: Enter the Well Tag Number for each well (typically 5 digits). Not all wells have been assigned a well tag number.

*Note: Well Log Numbers and Well Tag ID Numbers can be accessed through the Department's Website at [http://apps2.wrd.state.or.us/apps/gw/well\\_log/Default.aspx](http://apps2.wrd.state.or.us/apps/gw/well_log/Default.aspx)*

- 6<sup>th</sup> Column: The Department is asking if the actual location of each well is the same as where the permit authorizes the location of that specific well. If the actual location is not the same as the authorized location, a permit amendment may be necessary in order to receive approval for use of the well in a new location. If the actual location of any well is different from its authorized location, then Question 5-C) must also be completed. *Questions about permit amendments may be directed to the Transfers Section of the Department.*
- 7<sup>th</sup> Column: Report the rate (not the volume) of water being utilized under this permit from each well. Give the rate in cubic feet per second (CFS) or gallons per minute (GPM). If more than one well is listed on the permit, then add the rates from each individual well and enter the sum in the last box in this column for the "Total measured rate from all wells utilized under this permit."
- 8<sup>th</sup> Column: Enter a yes or no for each well listed on the permit, indicating if this well is authorized under any other water right(s).
- 9<sup>th</sup> Column: If a well is authorized under any other water right(s), provide the Permit Number(s), or Certificate Number(s) or Transfer Number(s) of each water right also listing that well.

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5-C) If the drilled location of a well is not authorized on this permit, please specify its location below, or provide a map showing its actual location. Has or will a permit amendment application been/be filed? Yes \_\_\_ No \_\_\_

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If a Permit Amendment Application has been filed: Transfer No. T-\_\_\_\_\_

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Well # \_\_\_\_\_ : Actual location \_\_\_\_\_

Well # \_\_\_\_\_ : Actual location \_\_\_\_\_

SALEM, OR

If yes is marked for any well in the 6<sup>th</sup> Column of Chart-E, this question (5-C) must be answered. For each well that is drilled in a location NOT authorized on the permit, report its actual location (for example: 300 Feet North and 520 Feet East from SW Corner, Section 6, Township 40 South, Range 10 East, W.M.), or provide a map with the actual well(s) location(s) clearly marked.

In rare cases, a permit amendment may have been filed prior to the extension application being filed. If this is the case, please provide the transfer number that was assigned to this permit amendment request. (e.g. T-10351). Current Department policy provides that if a permit amendment is needed for which the 'C-date' has passed, a Final Order approving an extension of time must be issued before the Department accepts the permit amendment application. A permit amendment can only be granted if the 'C-date' specified in the permit or a new 'C-date' granted in approved extension has not expired.

6. Provide the total number of acres irrigated to date under this permit (if applicable).

Total acres irrigated to date: \_\_\_\_\_

Ground Water Permits: Please specify which wells are being utilized for this irrigation.

Well # \_\_\_\_\_ Acres \_\_\_\_\_ Well # \_\_\_\_\_ Acres \_\_\_\_\_

Well # \_\_\_\_\_ Acres \_\_\_\_\_ Well # \_\_\_\_\_ Acres \_\_\_\_\_

If your permit authorizes irrigation, indicate the maximum number of acres you have irrigated under this permit.

If you have a ground water permit which authorizes the use of more than one well, or you are using more than one well for irrigation under this permit, please specify which wells are being utilized, and how many acres are being irrigated from that well.

7. Provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

Fill out Chart-F, making your best estimate of the future time line and costs for work necessary to complete construction and/or apply water to full beneficial use under the terms and conditions of the permit.

8. Estimated remaining cost to complete the project \_\_\_\_\_.

Indicate your best estimate of the remaining investment necessary to fully construct the system and to fully put water to beneficial use. This will be a total of the costs indicated in Chart-F from Question 7.

- 9. Describe the reasons why the water development was not constructed, and/or water was not beneficially used within permit time limits. Provide supporting information for the reason(s) that best fits your circumstances (9-A, 9-B, 9-C, and/or 9-D).**

It may be appropriate to respond in more than one category. Respond in category 9-D) if the reasons for delay do not fit in any other category.

- 9-A) Is the project of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit?**

Useful supporting information might include an excerpt from a business plan or a phasing schedule showing how the project is to be fully developed and water applied in increments. The supporting information can be simple and straightforward. This information would also be useful in evaluating the time needed to complete the project and beneficially use water.

For group domestic permits, historic population and employment information, growth forecasts and/or build-out status, including total number of residential units and other uses built, the number remaining to be built and absorption rates should be identified.

- 9-B) Did the financial resources needed to develop the project preclude completion of the project within authorized time frames?**

If financing was critical to development of the project, indicate the contract number, financing entity, date when you originally applied for financing and date the financing agreement was executed. It is not necessary to submit a copy of the agreement nor to disclose the terms of the agreement. If cash flow is a constraint to developing the project, develop a phasing plan indicating the investments made annually to date and estimated annual investments anticipated until the project is completed and water applied.

- 9-C) Did good faith attempts to comply with permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delay completion of the project.**

If it was necessary to obtain specific permits (land use approvals, wetland fill and removal permits, individual waste disposal system, or other water quality permits, etc.) to proceed with work under the water right permit, indicate the permits, date permit applications were filed, and date permits were issued by the appropriate authorities. If delays were caused by a general need to comply with government requirements, including specific conditions of the water right permit or other permits, provide a brief explanation of the requirements and, the good faith effort and general timeframes involved in complying with those requirements that delayed development of the water project under the permit.



**9-D) Have unforeseen events delayed full development of the water system and use of water within the authorized time frames?**

Natural disasters, severe weather, grave illnesses or death suffered by permit holders, family members, and business partners may be among the legitimate reasons that permit holders have not fully developed water systems and made beneficial use of water within permit timeframes. Supporting documentation to submit may include a list of the specific system or site damage caused by natural disasters or severe weather and the amount of delay and financial impact resulting from necessary repairs. For family illnesses and the like, a simple statement should be made indicating whether or not illness/accidents may have resulted in death or hospitalization and if resulting legal or ongoing health care/rehabilitation programs have affected the ability to complete the project authorized by the permit.

If there are other reasons for the delay that are not “Acts of God” and don’t fit in categories A, B, and C, list them in this subsection and provide supporting information and estimates of the delay caused by the unforeseen events.

**10. Justify the time requested to complete the project and/or apply the water to full beneficial use.**

A justification should integrate information from Items 2, 3-A, 3-B, 7 and 9 of this Application for Extension of Time, but may include any other information or evidence to establish that the requested amount of time is reasonable. This can be a summary of why you need the amount of time you have requested.

**11. Provide any other information you wish the Department to consider while evaluating the extension of time application.**

This is your opportunity to include any other information you want the Department to have when considering your extension request.

Thank you for submitting a complete and accurate application. Remember to sign the front page. If you have questions or need assistance, please ask to speak with the Department’s Extension Specialist by calling 503-986-0900 during business hours.

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

*Draft*  
*Suit by email*  
*referred*  
*9-16-14*  
*SWP*

**Application for Extension of Time for a Water Right Permit**  
 (Non-Municipal / Non-Quasi-municipal Water Use)

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

**I, Windhurst Road Watering Corporation**

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

**the holder of:** Application Number S-69654 Permit Number S-53703 [OAR 690-315-0020(3)(b)]

**\*\*A separate application must be submitted for each permit as per OAR 690-315-0020(2). \*\***

P.O. BOX 503  
 MAILING ADDRESS

97411  
 CITY, STATE, ZIP

(541) 347-3062  
 PHONE

NA  
 E-MAIL ADDRESS

X **do hereby request that** the time to apply water to full beneficial use under the terms and conditions of the permit, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019.

**Please Note.** If the permit **does** specify a date when **construction** must be **completed**, you should request to extend both the time to apply water to full beneficial use **and** to complete construction. These dates are typically found on the permit above the signature of the Director.

and

**do hereby request that** the time to complete construction of the water system, which now expires on Month 10 Day 1 Year 2014, be extended to October 30, Year 2019

Sign after completing the entire application, questions 1-11.

I am the permit holder, or have attached to this application written authorization from the permit holder, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension. I have completed the entire application.

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Printed Name/Title

**MAIL COMPLETED and SIGNED APPLICATION with the \$575 STATUTORY FEE TO:**

Water Resources Department  
Attn: Water Right Permit Extensions  
725 Summer Street NE, Suite A  
Salem, Oregon 97301

Submit the following items with your Application for Extension of Time:

- **The signed and completed Application for Extension of Time.**
- **\$575 check to OWRD or Oregon Water Resources Department**
- **All supporting documentation and/or evidence referenced in the application.**

Reference materials needed to complete this Application:

- **Water right permit.** A copy of the water right permit can be downloaded from the Department's Website at <http://www.wrd.state.or.us> (using the link to the Water Rights Information System (WRIS)). A copy of the permit may be requested from the Water Rights Division at 503-986-0801 (copy fees will apply).
- **Documentation** which demonstrates compliance with permit conditions (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification;, a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Helpful information for completing this Application:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form.** The form *Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits* is at the following link: <http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml#other>
- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the permit terms & conditions.
- The attached *Instructions for Completing an Application for Extension of Time for a Water Right Permit* will help you answer each question on the application. If, after reading the instructions, you need assistance, please call the Extensions Specialist at 503-986-0900.
- Permit extensions are evaluated under OAR Chapter 690, Division 315, which may be viewed at: <http://www.wrd.state.or.us/OWRD/LAW/index.shtml>. Please note that OWRD may require additional information, if necessary, to evaluate the application per OAR 315-0020(3)(n).
- OWRD will review applications received for completeness and will return incomplete or deficient applications per OAR 690-315-0040(1)(a) to the applicant.

## Questions to Complete this Application for Extension of Time

Please see the instruction sheet to help you answers these questions.

[OAR 690-315-0020(3)(d)]

1. **Did the “actual construction” of the water system/well drilling begin within the time specified in the permit?**    Yes    No    N/A, if not specified in this permit

Date “actual construction” began is: 1960

Describe details of construction: Manicke reservoir #4 constructed

[OAR 690-315-0020(3)(e)(A)]

**2-A. Please Describe how you have complied with each standard and special condition in the original permit [and, if applicable, conditions contained in any order approving a permit amendment and/or order approving a prior extension of time].**

*TIP: The instruction sheet explains which typical conditions must be addressed here.*

*Condition Number: Hand-number each condition on a copy of your permit (and, if applicable, any permit amendment and/or prior extension). Include a copy of your hand-numbered permit.*

**CHART-A**

Condition Number	Date Satisfied	Describe How Permit Condition Has Been Satisfied
1	2000	STAFF GAGE INSTALLED ON BEAR CR. ON BRIDGE DOWNSTREAM FROM CONFLUENCE OF BILLS CR.
2	2009	WEIR 7 STAFF GAGE INSTALLED AT POD FROM BILLS CREEK
3	2001	TOTALIZING FLOW METER INSTALLED AT POD FROM BILLS CREEK, REPORTS SUBMITTED BEGINNING FEB. 2002
4	2002	APPROVED FISH SCREEN INSTALLED AT POD FROM BILLS CREEK
5	2002	STAFF GAGES INSTALLED IN MOST PONDS, INCLUDING WINDHURST RESERVOIR

**2-B. If you have NOT complied with all applicable conditions, explain the reasons why and indicate with a date certain (in the near future) when compliance will occur.**

**CHART-B**

Condition Number	Date Will Comply	Explain Why Each Permit Condition Has NOT Been Satisfied
3	2014	INSTALL STAFF GAGES IN SCHERER AND HAGA PONDS AFTER 2014 HARVEST. A PORTION OF THE SCHERER FARM CHANGED HANDS TO BIG HORN OWL DURING THE LAST EXTENSION PERIOD. SCHERER HAS POSSESSION OF HAGA'S STAFF GAGES AND KNOWING OF APPLICATION FOR EXTENSION OF TIME WILL BE INSTALLING THEM AFTER THE 2014 HARVEST.



[OAR 690-315-0020(3)(e)]

**3-A. Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the original permitted time period.**

CHART-C (below) must be completed for all Application for Extension of Time requests. *Use chronological order.*

**CHART-C**

DATE	LIST & DESCRIBE WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST*
	SEE ATTACHMENT A	
DATE	LIST & DESCRIBE WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED <i>and</i> PRIOR TO DATE FOR COMPLETE APPLICATION OF WATER	COST*
	Date the permit was signed - find date above signature on last page of permit.	
	Date the permit specified "Actual Construction Work" shall begin ("A-Date") -not all permits contain this date.	
	Date the permit specified complete application of water to the use shall be made ("C-Date") - all permits contain this date.	
DATE	LIST & DESCRIBE WORK ACCOMPLISHED AFTER DATE FOR COMPLETE APPLICATION OF WATER UP TO NOW Complete if this is your first request for extension of time.	COST*
<b>*Total Cost for Chart-C</b>		

**\* If exact cost is not known, please provide your best estimate.**

**IF this is** your first Application for an Extension of Time, write NA in Chart D below and proceed to question 4 at the bottom of this page.

**3-B) Provide evidence of physical progress made toward completion of the water system and progress toward making beneficial use of water within the most recent extension period.**

If this **is not** your 1st Application for Extension of Time request, fill out CHART-D below in addition to CHART-C above. *Use chronological order.*

**CHART-D**

<b>DATE</b>	<b>LIST AND DESCRIBE WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD</b>	<b>COST*</b>
2005	"Extended From" date for complete application of water used in the 1 <sup>st</sup> (or the most recent) Application for Extension of Time.	
2009-2014	MANICKE- 50% COMPLETION OF EXTENSION TO ALL PONDS	\$10,000.00
2009-2014	SCHERER - COMPLETED RES. #7, PURCHASED STAFF GAGES AND WILL BE INSTALLED AFTER 2014 HARVEST SEASON	\$12,000.00
2009-2014	HAGA - PURCHASED STAFF GAGES AND WILL INSTALL AFTER 2014 HARVEST SEASON	\$10,000.00
2009-2014	RICHERT - WORKED ON CONSTRUCTION OF RES. #1 & #2, PURCHASED PUMPS AND PLUMBING	\$14,000.00
2014	FINAL ENGINEERING CERTIFICATION HAS BEEN COMPLETED	\$3,500.00
2014	"Extended To" date for complete application of water resulting from the 1 <sup>st</sup> (or the most recent) Application for Extension of Time.	
<b>DATE</b>	<b>LIST AND DESCRIBE WORK ACCOMPLISHED AFTER THE LAST EXPIRED EXTENSION PERIOD UP TO NOW</b>	<b>COST*</b>
<b>Total Cost of Chart-D</b>		<b>\$49,500.00</b>

\* If exact cost is not known, please provide your best estimate.

[OAR 690-315-0020(3)(f)]

**4. Cost of project to date: \$1,780,050.00**

(The total combined cost from CHART-C and CHART-D)

[OAR 690-315-0020(3)(e)(B)]

**5. Provide evidence of the maximum rate (or duty, if applicable) of water actually diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.**

***TIP:** Report the rate used to date in the same units of measurement as specified in the permit. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.*

**5-A) For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):**

Maximum measured rate used to date = 3 cfs (cubic feet per second)

or

Maximum measured rate used to date = \_\_\_\_\_ gpm (gallons per minute)

or

Acre-feet stored to date = \_\_\_\_\_ AF

**5-B) For Ground Water Permit Extensions (e.g. G-XXXX):**

***TIP:** Include information from ALL wells that pertain to this permit including wells not currently being used.*

**CHART-E**

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					If yes, provide the Permit, Certificate, or Transfer No.
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment? (See 5-C below)	Maximum measured rate used from this well -- under <u>this permit</u> only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	
		Yes <input type="checkbox"/> No <input type="checkbox"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>		Yes <input type="checkbox"/> No <input type="checkbox"/>	- -
		Yes <input type="checkbox"/> No <input type="checkbox"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>		Yes <input type="checkbox"/> No <input type="checkbox"/>	- -
		Yes <input type="checkbox"/> No <input type="checkbox"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>		Yes <input type="checkbox"/> No <input type="checkbox"/>	- -
		Yes <input type="checkbox"/> No <input type="checkbox"/>			Yes <input type="checkbox"/> No <input type="checkbox"/>		Yes <input type="checkbox"/> No <input type="checkbox"/>	- -
Total measured rate from all wells utilized under this permit								

**5-C) If the drilled location of a well is not authorized on this permit, please specify its location below, or provide a map showing its location. Has or will a Permit Amendment Application been/be filed? Yes  No**

*If a Permit Amendment Application has been filed: Transfer No. T-\_\_\_\_\_*

Well # \_\_\_\_\_: Actual location: \_\_\_\_\_

Well # \_\_\_\_\_: Actual location: \_\_\_\_\_

[OAR 690-315-0020(3)(e)(C)]

6. Provide the total number of acres actually irrigated to date under this permit (if any).

Surface Water Permits: I have applied water to 208.2 acres for irrigation to date.

Ground Water Permits: I have applied water to \_\_\_\_\_ acres for irrigation to date.

Please specify which wells are being utilized for this irrigation.

Well # \_\_\_\_\_ Acres \_\_\_\_\_ Well # \_\_\_\_\_ Acres \_\_\_\_\_

Well # \_\_\_\_\_ Acres \_\_\_\_\_ Well # \_\_\_\_\_ Acres \_\_\_\_\_

[OAR 690-315-0020(3)(j)]

7. Provide a summary of future plans and a schedule to complete construction of the water system, and/or apply water to full beneficial use under the permit terms and conditions.

CHART-F

APPROXIMATE DATE RANGE (projected)	LIST & DESCRIBE WORK TO BE ACCOMPLISHED TO COMPLETE WATER DEVELOPMENT (projected)	ESTIMATED COST (projected)
2014-2019	MANICKE - EXTENSION TO 50% OF PONDS TO FINISH	\$10,000.00
2014-2019	SCHERER - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, ENLARGE RES. #1 & #2	\$10,000.00
2014-2019	HAGA - INSTALL STAFF GAGES AFTER 2014 HARVEST SEASON, COMPLETE BEE STING RES.	\$10,000.00
2014-2019	RICHERT - FINISH CONSTRUCTION OF RES. #1 & #2, INSTALL PUMPS AND PLUMBING	\$18,000.00
Year: 2019	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
8.	<b>Estimated remaining total cost to complete the water development:</b> [OAR 690-315-0020(3)(g)]	<b>\$48,000.00</b>

[OAR 690-315-0020(3)(h)]

9. Describe the reasons why the water development was not constructed, and/or water was not beneficially used within permit time limits. Provide supporting information for the reason(s) that best fits your circumstances (A, B, C or D).

9-A) Is the project of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit? If yes, describe.



THIS IS A VERY LARGE AND EXPENSIVE PROJECT THAT WAS PLANNED TO BE PHASED IN OVER A LONGER PERIOD OF TIME THAN ALLOWED BY THE PERMIT.

9-B) Did the financial resources needed to develop the project preclude completion of the project within authorized time frames? If yes, describe.

FINANCIAL RESOURCES ARE LIMITED DUE TO THE UNSTABLE PRICE OF CRANBERRIES. STILL RECOVERING FROM MARKET CRASH.

9-C) Did good faith attempts to comply with other agency permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delay completion of the project? If yes, describe.

NO

9-D) Have other unforeseen events delayed full development of the water system and use of water within the authorized time frames? If yes, describe.

ONE OF THE MAIN PARTNERS OF WINDHURST ROAD WATERING CORPORATION PASSED AWAY IN 2014.

[OAR 690-315-0020(3)(k)]

10. **Justify the time requested to complete the project and/or apply the water to full beneficial use.** Your justification should combine information from your answers from Questions 2-B, 7, 8, and 9 of this Application for Extension of Time. Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

INSTALL STAFF GAGES IN SCHERER AND HAGA PONDS. MANICKE HAS 50% OF THE EXPANSION TO PONDS LEFT TO FINISH. SCHERER WILL BE INSTALLING STAFF GAGES AFTER THE 2014 HARVEST AND ENLARGING RESERVOIRS #1 & #2. A PORTION OF THE SCHERER FARM WAS SOLD TO BIG HORN OWL WHO IS A NEW OPERATOR AND NEEDS TIME TO ENLARGE SCHERER RESERVOIRS # 1 & #2. HAGA WILL INSTALL STAFF GAGES AFTER THE 2014 HARVEST AND WORK ON COMPLETING BEE STING RESERVOIR WHEN EQUIPMENT BECOMES AVAILABLE. THIS PROJECT WAS VERY LARGE AND EXPENSIVE AND WAS TO BE PHASED IN OVER A LONGER PERIOD OF TIME THAN THE PERMIT ALLOWED. FINANCIAL RESOURCES ARE LIMITED DUE TO THE UNSTABLE PRICE OF CRANBERRIES.

CWRE WILL BE MONITORING PROGRESS AND REQUESTING THAT THE PROJECT BE FINISHED WITHIN THE AMOUNT OF TIME REQUESTED.

11. **Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.**

WE ARE UNABLE TO SEPARATE COSTS FROM THIS PERMIT AN PERMIT R-12928. PLEASE CONSIDER BOTH PERMITS TOGETHER. CWRE WILL BE MONITORING PROGRESS TO ENSURE COMPLETION OF PROJECT IN A TIMELY MANNER.

Thank you for submitting a complete and accurate application. Remember to sign the front page. If you have questions or need assistance, please ask to speak with the Department's Extension Specialist by calling 503-986-0900 during business hours.

## ATTACHMENT A

### CHART - C

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED	COST
1960	CONSTRUCT MAICKE RES. #4	\$5,000.00
1968	CONSTRUCT HAGA RES. #4	\$2,500.00
1969	CONSTRUCT RICHERT RES. #4	\$8,000.00
1971	CONSTRUCT SCHERER RES. #5 & #1	\$9,000.00
1972	CONSTRUCT RICHERT RES. #2	\$8,000.00
1975	CONSTRUCT SCHERER RES. #8, ENLARGE EXISTING RESERVOIR	\$7,000.00
1980	CONSTRUCT MANICKE RES. #1 & #2	\$15,000.00
1983	CONSTRUCT SCHERER RES. #6	\$8,500.00
1988	CONSTRUCT MANICKE RES. #3	\$10,000.00
1989	CONSTRUCT HAGA RES. #2	\$4,500.00
1990	CONSTRUCT SCHERER RES. #4 & RE-SAND BOGS	\$9,000.00
1993	CONSTRUCT HAGA RES. #3	\$6,000.00
1993	CONSTRUCT RICHERT RES. #3	\$15,000.00
1996	PARTIAL CONSTRUCTION OF BEE STING RES. (HAGA)	\$1,500.00
2000	CONSTRUCT SCHERER RES. #3	\$5,500.00
1998-2000	CONSTRUCT WINDHURST RES., INSTALL PIPING, WEIR, STAFF GAGES, METER	\$1,600,000.00

DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED AND PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER	COST
10/10/2000	THE PERMIT WAS SIGNED	
10/10/2001	THE PERMIT SPECIFIED "ACTUAL CONSTRUCTION WORK" SHALL BEGIN ("A-DATE")	
2001	INSTALL PUMP, ELECTRICAL & VALVES FOR WINDHURST RES.	\$12,050.00
2001	PARTIAL EXCAVATION OF HAGA RES.#1	\$4,000.00
10/01/2005	DATE THE PERMIT SPECIFIED COMPLETE APPLICATION OF WATER TO THE USE SHALL BE MADE ("C-DATE")	
	TOTAL COST FOR CHART - C	\$1,730,550.00



# Oregon

John A. Kitzhaber, MD, Governor

## Water Resources Department

North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

September 29, 2014

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #: S-69654 (Permit S-53703)**. Your application will be reviewed in the future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

If you are interested in having your application reviewed sooner, you may pay to have your file processed immediately, using the Reimbursement Authority program, which is described at: [http://www.wrd.state.or.us/OWRD/mgmt\\_reimbursement\\_authority.shtml](http://www.wrd.state.or.us/OWRD/mgmt_reimbursement_authority.shtml)

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Mabelle Bamberger at (503) 986-0802. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's website at: [www.wrd.state.or.us](http://www.wrd.state.or.us).

S-109654

S-53703

Last revised: August 19, 2013

### Completeness Checklist for Permit Extension of Time Application

Minimum completeness criteria for Extension of Time Applications are set forth in OAR 690-086-0020(3) for NON-Municipal or NON-Quasi-Municipal permits and in OAR 690-086-0070(3) for Municipal or Quasi-Municipal permits.

- 1. Pull the permit file. If a copy of the permit is not in the file, pull up an image of the permit in WRIS.
- 2. Is the permit to be extended Non-Cancelled according to WRIS and the permit file? \_\_\_\_\_  
If the permit has been cancelled, the Extension Application cannot be accepted.
- 3. Is the extension applicant's name and mailing address supplied? \_\_\_\_\_

If yes, is the applicant a permit holder of record (i.e., permit issued or assigned to them)? \_\_\_\_\_

If the extension applicant is NOT a permit holder of record, a "Request for Assignment" must be accepted and processed before the Extension Application can be processed.

If an Assignment has not yet occurred, and is not submitted with the Extension of Time Application, the application cannot be accepted.

\* NOTE: The applicant may submit a complete "Request for Assignment," at the same time, which must include the statutory fee of \$85 for the assignment, required proof of ownership, or signature of previous permit holder, in addition to all necessary items required for the Extension of Time Application so that **both applications can be accepted.**

- 4. Is the appropriate Extension of Time Application used? \_\_\_\_\_  
If the wrong application form is used, the Extension Application cannot be accepted.
  - If a Municipal or Quasi-Municipal permit, use: "Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits."
  - If a NON-Municipal or NON-Quasi-Municipal permit, use: "Application for Extension of Time for a Water Right Permit (Non-Municipal / Non-Quasi-municipal Water Use)."

- 5. Are the requested date(s) for extension identified (Page 1)? \_\_\_\_\_
  - Check the permit to see if it includes a "B-Date" and/or a "C-Date."
  - "B-Date" = date by which construction of the water delivery system for the permit is to be completed.
  - "C-Date" = date by which full beneficial use of water under the permit is to be accomplished.

NOTE: For permits with both a "B-Date and a "C-Date," the applicant will likely request an extension of both dates (i.e., to complete construction of the water delivery/distribution system and to apply water to full beneficial use). Unless, of course, construction of the water delivery system is complete. In which case, the applicant would likely only request an extension of the "C-Date" (i.e., to apply water to full beneficial use).

For permits with only a "C-Date," the applicant will only be requesting an extension of the date in which to apply water to full beneficial use.

- 6. Is the Extension Application signed (with an original signature) by permit holder(s) of record or an authorized agent? coming in ma.  
(If signed by agent, documentation from the permit holder(s) granting authorization for the agent to sign on their behalf must be provided or be present and current in the permit file.)

If not signed by a permit holder of record or authorized agent, the Extension Application cannot be accepted.

NOTE: If the permit covers land that has been subdivided and assigned to different, individual parties... we only need signatures of the permit holder(s) of record for the portion of the permit involved in the Extension of Time Application.



7. Are all questions on the application answered? \_\_\_\_\_  
 (NOTE: Supporting documentation such as: copies of the permit, well log(s), annual water use reports, static water level measurement reports, evidence demonstrating construction/work/water use accomplished, etc. may be included.)

**The tables below are informational only. No need to check off.**

**■ NON-Municipal or NON-Quasi-Municipal Permit Extension Applications:**

▪ Ques. #1 - Information provided on beginning of construction ("A" Date) under the permit.	▪ Ques. #5-C - Well location information provided <u>and</u> whether a permit amendment is necessary.
▪ Ques. #2 - Information provided on compliance with permit conditions.	▪ Ques. #6 - Information provided on number of acres irrigated, if applicable.
▪ Ques. #3 - Description provided of progress made in developing the permit.	▪ Ques. #7 - Description provided of remaining work left to be accomplished to perfect the permit.
▪ Ques. #4 - Monetary investment made in the project to date provided.	▪ Ques. #8 - Description provided of estimated cost to complete the project associated with the permit.
▪ Ques. #5-A - Max amount of water beneficially used to date for a SW permit indicated.	▪ Ques. #9 - Explanation provided of why the permit has not been fully developed/perfected.
▪ Ques. #5-B - Well construction information provided <u>and</u> max amount of water beneficially used to date for a GW permit indicated.	▪ Ques. #10 - Justification provided of why the requested time is necessary to complete project.

**■ Municipal/Quasi-Municipal Permit Extension Applications:**

▪ Ques. #2 - For Quasi-Municipal permits only, information provided on beginning of construction ("A" Date) under the permit.	▪ Ques. #8 - Estimate provided of current peak water demand of the population served <u>and</u> the methodology used to make the estimate.
▪ Ques. #3 - For Municipal permits issued on or after June 29, 2005, information provided on beginning of construction ("A" Date).	▪ Ques. #9 - Explanation provided of why the permit has not been fully developed/perfected.
▪ Ques. #4 - Description provided of progress made in developing the permit <u>and</u> financial expenditures made in the project to date.	▪ Ques. #10-A - Estimate provided of demand projection for the permit, the methodology used to make the estimate <u>and</u> anticipated date for full beneficial use of the permit.
▪ Ques. #5-A & #5-B - Information provided on compliance (or non-compliance) with permit conditions.	▪ Ques. #10-B - For extension requests greater than 50 years, documentation provided that the demand projection is consistent with the lands and uses proposed to be served by the permit holder.
▪ Ques. #6-A - Max amount of water beneficially used to date for a SW permit indicated.	▪ Ques. #11 - Estimate of costs to complete the project and a summary of future schedule to complete construction / perfect the water right.
▪ Ques. #6-B - Well construction information provided <u>and</u> max amount of water beneficially used to date for a GW permit indicated.	▪ Ques. #12 - Justification provided of why the requested time is necessary to complete project and/or apply water to full beneficial use.
▪ Ques. #6-C - Well location information provided <u>and</u> whether a permit amendment is necessary.	▪ Ques. #14- A copy of any agreements regarding use of the undeveloped portion of the permit and maintaining the persistence of fish, if applicable.
▪ Ques. #7 - Estimate provided of current population served under the permit <u>and</u> the methodology used to make the estimate.	▪ Attachment A - A tabular inventory of the water supplier's water rights and any other water use authorizations.

8. Has the \$575 fee been paid? 113493  
 \*If applicable, has the \$85 fee for the Assignment been paid? \_\_\_\_\_  
 (As of July 1, 2013, the Extension of Time fee is \$575, and Request for Assignment fee is \$85)

If the fee has NOT been paid, the application cannot be accepted.

**\*\*NOTE:** If the fee is the only item missing, contact the applicant to see if they can submit the fee with the next few days. If the applicant commits to submitting the fee within one week, hold the Extension Application, and explain to them that if it is not received the application will be returned (as we are required to keep any application, regardless of how complete, if retained by the Department as long as two weeks).

9. If after completing this checklist, it is not clear whether the application can be accepted, please route both the money slip and Extension Application to **Extension Specialist**, or **Anne Reece** for municipal and quasi-municipal applications. One will either: 1) accept the application; 2) return the application; or 3) prepare a deficiency letter.

Reviewed by: Steven Parrott Date: 9-22-14

STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

RECEIVED

MAR 06 2009

WATER RESOURCES DEPT  
SALEM, OREGON

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION  
P.O. BOX 503  
BANDON, OREGON 97411

(541)347-3062

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-69654

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK, AND LEGALLY STORED WATER UNDER PERMIT R-12928

PURPOSE OR USE: CRANBERRY OPERATIONS ON 162.4 ACRES, AGRICULTURAL USE ON 27.7 ACRES, AND SUPPLEMENTAL CRANBERRY OPERATIONS ON 18.1 ACRES

MAXIMUM RATE/VOLUME ALLOWED: 614.0 ACRE-FEET OF STORED WATER; MAXIMUM INSTANTANEOUS DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED UNDER PERMIT R-12928, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW.

PERIOD OF USE: NOVEMBER 1 THROUGH MAY 31 FROM NATURAL FLOW AND YEAR ROUND FROM STORED WATER ONLY

DATE OF PRIORITY: JUNE 30, 1988

POINT OF DIVERSION LOCATION: BILL CREEK - NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH & 2480 FEET EAST FROM W1/4 CORNER, SECTION 3; STORED WATER FROM 23 RESERVOIRS DESCRIBED IN PERMIT R-12928.

- ① Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow
- ②

Application S-69654

Water Resources Department

Permit 53703

measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

③

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing R-69708, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for R-69708, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for R-69708 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<sup>*1</sup> <u>CRANBERRY</u>	<sup>*2</sup> <u>AGRICULTURE</u>	<sup>*3</sup> <u>SUPPLEMENTAL CRANBERRY</u>
NE 1/4 NE 1/4	5.9 ACRES		4.3 ACRES
NW 1/4 NE 1/4	5.0 ACRES		
SE 1/4 NE 1/4	4.3 ACRES		0.7 ACRE

SECTION 32

NW 1/4 NW 1/4	25.0 ACRES
SW 1/4 NW 1/4	18.0 ACRES
SE 1/4 NW 1/4	7.0 ACRES

SECTION 33

TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

NW 1/4 SW 1/4	7.0 ACRES
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SECTION 3

NW 1/4 SW 1/4	15.0 ACRES	6.0 ACRES
SW 1/4 SW 1/4	1.2 ACRES	13.1 ACRES

Application S-69654

Water Resources Department

Permit 53703

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WATER RESOURCES DE  
SALEM, OREGON



	<u>*1CRANBERRY</u>	<u>*2AGRICULTURE</u>	<u>*3SUPPLEMENTAL CRANBERRY</u>
SE 1/4 SW 1/4	15.2 ACRES		
NE 1/4 SE 1/4	12.0 ACRES		

SECTION 4

NE 1/4 NE 1/4	7.0 ACRES	0.4 ACRE
NW 1/4 NE 1/4	1.2 ACRES	0.1 ACRE
SW 1/4 NE 1/4		2.0 ACRES
SE 1/4 NE 1/4	8.2 ACRES	3.9 ACRES
NE 1/4 SE 1/4	6.0 ACRES	5.0 ACRES
SE 1/4 SE 1/4	0.2 ACRE	

SECTION 5

NE 1/4 NE 1/4	4.7 ACRES	3.0 ACRES
NW 1/4 NE 1/4	16.5 ACRES	
SW 1/4 NE 1/4	3.0 ACRES	7.3 ACRES

SECTION 9

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

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SALEM, OREGON

\*1 - Use of water is for primary irrigation and agriculture use for Cranberry Operations.

\*2 - Use of water is for primary agriculture use and supplemental Irrigation use for Cranberry Operations.

\*3 - Use of water is for supplemental agriculture use and irrigation use for Cranberry Operations.

Measurement, recording and reporting conditions:

- ④ A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion from Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

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WATER RESOURCES DEPT  
SALEM, OREGON

Page 4

⑤ At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

⑥ Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

#### STANDARD CONDITIONS

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.



The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2005. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued October 10 , 2000



Paul R. Cleary, Director  
Water Resources Department

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WATER RESOURCES DEPT  
SALEM, OREGON

Application S-69654  
Basin 17

Water Resources Department  
Volume 3 BEAR CREEK AND MISC

Permit 53703  
DISTRICT 19

**Oregon Water Resources Department**  
**Water Right Services Division**

**PROPOSED FINAL ORDER**

In the Matter of the Application for an Extension of Time for Permit S-53703, Water Right Application S-69654, in the name of Windhurst Road Water Corporation.

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**Permit Information**

Application:	S-69654
Permit:	S-53703
Basin:	17 – South Coast / Watermaster District 19
Date of Priority:	June 30, 1988
Source of Water:	Bill Creek, a tributary of Bear Creek, and legally stored water under Permit R-12928
Purpose of Use:	Cranberry operations on 162.4 acres, agricultural use on 27.7 acres, and supplemental cranberry operations on 18.1 acres
Maximum Rate/Volume:	614.00 acre feet (AF) of stored water; maximum instantaneous diversion rate from Bill Creek authorized under this permit, combined with the diversion authorized under Permit R-12928, not to exceed 2.75 cubic feet per second (cfs) November 1 through May 31 from natural flow and year round from stored water

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***\*\*Please read this Proposed Final Order in its entirety as it may contain additional conditions not included in the original permit\*\****

*In summary, the Department proposes to:*

- Grant an extension of time to apply water to full beneficial use from October 1, 2014 to October 30, 2019.<sup>1</sup>
- Make the extension subject to certain conditions set forth below.

This Extension of Time request is being processed in accordance with Oregon Revised Statute

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<sup>1</sup> Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use.

537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315

**ACRONYM QUICK REFERENCE**

Department – Oregon Water Resources Department

PFO – Proposed Final Order

cfs – cubic feet per second

gpm – gallons per minute

AF – acre-feet

**AUTHORITY**

**Generally, see ORS 537.230 and OAR Chapter 690 Division 315.**

**ORS 537.230(3)** provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

**ORS 539.010(5)** provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

**OAR 690-315-0040** provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

**OAR 690-315-0050(6)** requires the Department, for extensions exceeding five years, to establish checkpoints to determine if diligence is being exercised in the development and perfection of the water use permit. Intervals between checkpoints will not exceed five year periods.

**FINDINGS OF FACT**

**Background**

1. Permit S-53703 was granted by the Department on October 10, 2000. The permit authorizes 614.0 AF of stored water under Permit R-12928 year round; maximum instantaneous diversion rate from Bill Creek authorized und this Permit, combined with the diversion authorized under permit R-12928, not to exceed 2.75 cfs, November 1 through May 31 from natural flow from Bill Creek, a tributary of Bear Creek for

cranberry operations on 162.4 acres, agriculture use on 27.7 acres, and supplemental cranberry operations on 18.1 acres. The permit specified actual construction was to begin by October 10, 2001 and complete application of water was to be made on or before October 1, 2005.

2. One prior permit extension has been granted for Permit S-53703. The most recent extension resulted in the completion dates for full application of water being extended to October 1, 2014.
3. The permit holder submitted an "Application for Extension of Time" to the Department on September 26, 2014, requesting both the time to complete construction of the water system and the time to apply water to full beneficial use under the terms of Permit S-53703 be extended from October 1, 2014 to October 30, 2019. However, since the permit does not contain a specific deadline for completing construction, the Department needs to only consider an extension of the time to apply water to full beneficial use. This is the first permit extension requested for Permit S-53703.
4. Notification of the Application for Extension of Time for Permit S-53703 was published in the Department's Public Notice dated October 7, 2014. No public comments were received regarding the extension application.

Review Criteria [OAR 690-315-0040]

*The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0040. This determination shall consider the applicable requirements of ORS 537.230<sup>2</sup>, 537.248<sup>3</sup> and/or 539.010(5)<sup>4</sup>.*

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

5. On September 26, 2014, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

6. Actual construction of the water system began prior to the October 10, 2001 deadline specified in the permit. In 2000, a staff gage was installed on Bear Creek on the bridge downstream from the confluence of Bills Creek.

Duration of Extension [OAR 690-315-0040(1)(c)]

*Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.*

7. As of September 26, 2014, the remaining work to be completed consists of installing

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<sup>2</sup>ORS 537.230 applies to surface water permits only.

<sup>3</sup>ORS 537.248 applies to reservoir permits only.

<sup>4</sup>ORS 539.010(5) applies to surface water and ground water permits.

staff gages in Scherer and Haga reservoirs and applying water to full beneficial use.

8. Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 30, 2019, to accomplish the application of water to beneficial use under the terms and conditions of Permit S-53703 is both reasonable and necessary.

Good Cause [OAR 690-315-0040(1)(d)]

*The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0040(2).*

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

*The Department's determination of reasonable diligence shall consider the requirements set forth under OAR 690-315-0040(3)(a-d). In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:*

Amount of Construction [OAR 690-315-0040(3)(a)]

9. Work was accomplished within the time allowed in the permit or previous extension as follows:
  - a. Construction of the water system began prior to the October 10, 2001 deadline specified in the permit. In 1998 installation of a staff gage at the point of diversion from Bills Creek was completed and in 2000 a staff gauge was installed downstream from the confluence of Bear Creek and Bill Creek.
  - b. Work was completed during the original development time frame under Permit S-53703. Installed totalizing flow meter in 2001, installed approved fish screen in 2002, and installed staff gages in most of the reservoirs.
  - d. During the most recent extension period, being from October 1, 2005, to October 1, 2014, the following was accomplished:
    - Purchased staff gages for Scherer and Haga reservoirs; and
    - Purchased pumps and plumbing for Richert reservoir.

Beneficial Use of Water [OAR 690-315-0040(3)(b)]

10. The following beneficial use was made of the water during the permit or previous extension time limits:
  - a. Since the issuance of Permit S-53703 on October 10, 2000, the permit holder has used 3.0 cfs of water diverted from Bill Creek, a tributary of Bear Creek, and 614.0 AF of legally stored water under Permit R-12928 for cranberry operations on 162.4 acres, agricultural use on 27.7 acres, and supplemental cranberry operations on 18.1 acres. This exceeds the amount of water authorized under



this permit. The authorized amount of water is 2.75 cfs.

Compliance with Conditions [OAR 690-315-0040(3)(c)]

11. The water right permit holder's conformance with the permit or previous extension conditions.
  - a. The Department has considered the permit holder's compliance with conditions, and has identified the following concerns: (1) annual reports of the amount of water used each month have not been received by the Department, (2) rating curve and stream flow measurements have not been received by the Department, and (3) not all staff gages are installed.
  - b. In order to legally perfect the storage of water under this permit, the permit holder must demonstrate that all conditions of the permit have been satisfied.

Financial Investments to appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]

12. As of September 26, 2014, the permit holder has invested approximately \$890,025, which is about 97 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional \$24,000 investment is needed for the completion of this project.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

13. The Department has found good faith of the appropriator under Permit S-53703.

The Market and Present Demands for Water [OAR 690-315-0040(2)(d-e)]

*The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:*

14. The amount of water available to satisfy other affected water rights and scenic waterway flows; special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d); or the habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife [OAR 690-315-0040(4)(a-c)].
  - a. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit S-53703; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an application for a new water right is submitted. The points of diversion are located on Bill Creek, a tributary of Bear Creek, and are not located within a Withdrawn Area.

Bill Creek, a tributary of Bear Creek, is not located within or above a state or federal scenic waterway, however, it is located within an area ranked "low" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife. The points of diversion are not in a location listed by the Department of Environmental Quality as a water quality limited stream.

15. Other economic interests dependent on completion of the project [OAR 690-315-0040(4)(e)].
  - a. None have been identified.
16. Other factors relevant to the determination of the market and present demand for water and power [OAR 690-315-0040(4)(f)].
  - a. None have been identified.
17. OAR 690-315-0050(6) requires the Department to place a checkpoint condition on this extension of time in order to ensure diligence is exercised in the development and perfection of the water use permit. A "Checkpoint Condition" is specified under Item 1 of the "Conditions" section of this PFO to meet this condition.

Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

18. Use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

19. Delay in the development of this project was not caused by any other governmental requirements.

Unforeseen Events [OAR 690-315-0040(2)(h)]

20. None have been identified.

## **CONCLUSIONS OF LAW**

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230(3).
2. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).
3. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

4. Full application of water to beneficial use can be accomplished by October 30, 2019<sup>5</sup>, as required by OAR 690-315-0040(1)(c).
5. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).
6. As required by OAR 690-315-0050(6) and as described in Finding 17, above, the Department has established, as specified in the "Conditions" section of this PFO (Item1), progress checkpoints in order to ensure future diligence is exercised in the development and perfection of Permit S-53703.
- 7.

## PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Extend the time to apply water to beneficial use under Permit S-53703 from October 1, 2014 to October 30, 2019.

Subject to the following conditions:

## CONDITIONS

### 1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2016**. *A form will be enclosed with your Final Order.*

- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension.

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<sup>5</sup>Pursuant to ORS 537.230(3), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and a new or revised claim of beneficial use as deemed appropriate by the Department.

If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;

(b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

DATED: November 18, 2014

  
Dwight W. French, Administrator  
Water Right Services Division

*If you have any questions,  
please check the information  
box on the last page for the  
appropriate names and  
phone numbers.*

#### Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **January 2, 2015**, being 45 days from the date of publication of the proposed final order in the Department's weekly notice.
2. A written protest shall include:
  - a. The name, address and telephone number of the petitioner;
  - b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
  - c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
  - d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
  - e. Any citation of legal authority supporting the petitioner, if known;





Mailing List for Extension PFO Copies

PFO Date: November 18, 2014

Copies Mailed

Application: S-69654

Permit: S-53703

By: BW  
On: 11/18/14

Original mailed to Applicant:

Windhurst Road Water Corporation  
P.O. Box 503  
Bandon, OR 97411

Copies sent to:

1. WRD - App. File S-69654/ Permit S-53703

Fee paid as specified under ORS 536.050 to receive copy:

2. None

Receiving via e-mail (10 AM Tuesday of signature date)  
(DONE BY EXTENSION SPECIALIST)

3. WRD - Watermaster District 19, Mitch Lewis

CASEWORKER: MAB

APP. NO. / PERMIT NO.	CERT NO.	GOV'T LOT DLC	NE				NW				SW				SE			
			NE	NW	NE	SW	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
G 14155 G 12817	0 V										6.20 (CR) (S)							
R 69927 R 11466	0 V										(CR)							
S 23022 S 18143	23007 V							5.70 (IR)				0.10 (IR)						
S 35031 S 27437	36524 V																	
S 41401 S 30926	36502 V							0.80 (IR)		6.30 (IR)		0.10 (IR)						
								5.70 (IR)				1.40 (IR)						
S 42825 S 32008	36503 V							2.80 (IR)										
S 46863 S 35039	39525 V						3.00 (IR)											
S 59907 S 45731	0 V							0.80 (CR)		14.80 (CR)		1.50 (CR)						
										1.00 (CR)								
S 69928 S 51486	0 V										8.00 (CR)							







APP. NO. / PERMIT NO.	CERT NO.	GOV'T LOT DLC	NE				NW				NE	SW			NE	SW		
			NE	NW	SW	SE	NE	NW	SW	SE		NW	SW	SE		NW	SW	SE
R 5017 R 368	0	V																
R 70196 R 11808	0	V												(CR)				
S 4982 S 3011	0	V									(MU)							
S 14782 S 10728	11113	V										4.00 (IR)						
S 20090 S 15653	20828	V										2.00 (IR)						
S 31234 S 24615	35720	V											0.50 (IR)	0.80 (IR)				
S 42825 S 32008	36503	V															1.00 (IR)	
S 55207 S 41467	59066	V											4.25 (CI)					
S 59907 S 45731	0	V															1.00 (CR)	
S 54733 S 47504	59067	V											(CH) 0.50 (TC)	(CH) 0.80 (TC)				
S 58371 S 49680	0	V										0.25 (CR)	7.85 (CR)					
S 70197 S 52296	0	V											2.00 (CR)	8.00 (CR)				



**Oregon Water Resources Department**  
**Water Right Services Division**

Water Rights Application  
Number S-69654

**FINAL ORDER**

Extension of Time for Permit Number S-53703  
Permit Holder: Windhurst Road Water Corporation

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**Permit Information**

Application:	S-69654
Permit:	S-53703
Basin:	17 – South Coast / Watermaster District 19
Date of Priority:	June 30, 1998
Source of Water:	Bill Creek, a tributary of Bear Creek, and legally stored water under Permit R-12928
Purpose of Use:	Cranberry operations on 162.4 acres, agricultural use on 27.7 acres, and supplemental cranberry operations on 18.1 acres
Maximum Rate/Volume:	614.00 acre feet (AF) of stored water; maximum instantaneous diversion rate from Bill Creek authorized under this permit, combined with the diversion authorized under Permit R-12928, not to exceed 2.75 cubic feet per second (cfs) November 1 through May 31 from natural flow and year round from stored water

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**This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.230 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315**

Appeal Rights

**This is a final order in other than a contested case.** This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60

days following the date the petition was filed, the petition shall be deemed denied.

### Application History

Permit S-53703 was issued by the Department on October 10, 2000. The permit called for actual construction to begin by October 10, 2001, and complete application of water to beneficial use by October 1, 2005. The most recent extension authorized complete application of water to beneficial use by October 1, 2014. On September 26, 2014, Windhurst Road Water Corporation submitted to the Department an Application for Extension of Time for Permit S-53703. In accordance with OAR 690-315-0050(2), on November 18, 2014, the Department issued a Proposed Final Order proposing to extend the time to apply water to full beneficial use from October 1, 2014 to October 30, 2019. The protest period closed January 2, 2015, in accordance with OAR 690-315-0060(1). No protest was filed.

## FINDINGS OF FACT

The Department adopts and incorporates by reference the findings in the Proposed Final Order dated November 18, 2014.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to additional conditions.

## CONDITIONS

### 1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2016. A form is enclosed with this Final Order.**

- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260

or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;

(b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

### CONCLUSION OF LAW

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

### ORDER

The extension of time for Application S-69654, Permit S-53703, therefore, is approved. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 2014 to October 30, 2019.

DATED: January 9, 2015



Dwight French  
Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

- 
- If you have any questions about statements contained in this document, please contact Permit Extension Specialist at (503) 986-0802.
  - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900
-



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

**Extension of Time  
Progress Reporting Form  
For Checkpoints**

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: Windhurst Road Water Corp      Application S-69654      Permit S-53703

**Progress Report Form for 2016**

Report Due no later than October 1, 2016

DO NOT SUBMIT PRIOR TO 30 DAYS BEFORE DUE DATE

As authorized in ORS 690-315-0050(6), this progress report is required in order to ensure diligence is exercised in the development and perfection of Permit S-53703. FAILURE TO SUBMIT THIS REPORT WILL MOST LIKELY RESULT IN ANY FUTURE EXTENSION BEING DENIED.

DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between September 26, 2014 and October 1, 2016	FINANCIAL INVESTMENT
	Submitted Water use report to the Department	
	Submitted rating curve and stream flow measurements to the Department and Watermaster District 19	

2. Describe actions taken to comply with terms/conditions of the permit and/or previous extension.

3. Total number of acres irrigated to date : \_\_\_\_\_ (NA if not applicable)

4. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit, if any, **made to date**.

Maximum rate used to date = \_\_\_\_\_ cfs (cubic feet per second)

or

Maximum rate used to date = \_\_\_\_\_ gpm (gallons per minute)

or

Acre Feet stored to date = \_\_\_\_\_ AF

*Report the rate in the same units of measurement as specified in the permit, being cfs (cubic feet per second), gpm (gallons per minute) or AF (acre-feet). Do not provide daily, monthly or annual water volume totals.*

INCOMPLETE REPORTS WILL BE RETURNED. AN ANSWER IS REQUIRED IN EACH ITEM.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name/Title \_\_\_\_\_

*For OWRD use only*

Diligence Shown     Yes     No

Date Public Noticed: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_

Mailing List for Extension FO Copies

FO Date: January 9, 2015

Copies Mailed

Application: S-69654

Permit: S-53703

By: BRW  
On: 1/9/15

Original mailed to permit holder

Windhurst Road Water Corporation  
P.O. Box 503  
Bandon, OR 97411

Copies sent to:

1. WRD - App. File S-69654/ Permit S-53703

Fee paid as specified under ORS 536.050 to receive copy:

2. None

Receiving notification via e-mail FO available in WRIS for review  
(DONE BY EXTENSION SPECIALIST)

3. WRD - Watermaster District 19, Mitch Lewis

If Progress Reports are included:  
(DONE BY EXTENSION SPECIALIST)

Add record to Progress Report tracking sheet.xls Done: by OW Date 1-6-15

CASEWORKER: MAB





# Oregon

John A. Kitzhaber, MD, Governor

**Water Resources Department**  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

July 29, 2011

WINDHURST ROAD WATERING CORP.  
PO BOX 503  
BANDON, OR 97411

REFERENCE: Application S-69654 / Permit S-53703

Dear Permit Holder:

The Water Rights and Adjudications Division received your written progress report for Permit S-53703. Receipt of the progress report was published on the Department's weekly Public Notice, dated June 14, 2011. The Department did not receive any public comment on the progress report.

After reviewing your Progress Report, the Department determined that diligence toward completion of the project and compliance with the terms and conditions of the permit and extension has been demonstrated.

If you have any questions, please feel free to contact me by telephone at (503) 986-0827.

Sincerely,

Ann Reece  
Extensions  
Water Rights Services Division

Enclosure

cc: Application S-69654  
Watermaster District 19 – Mitch Lewis



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

# Extension of Time Progress Reporting Form For Checkpoints

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: Windhurst Road Watering Corporation

Application S-69654  
 Permit S-53703

Report Due no later than October 1, 2010

## Progress Report Form for 2010

As authorized in ORS 690-315-0050(6), this progress report is required in order to ensure diligence is exercised in the development and perfections of Permit S-53703

INSERT DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between October 1, 2005 and October 1, 2014	FINANCIAL INVESTMENT
<b>2008</b>	Construct 3 acres of bogs (does not include delivery system)	<b>\$20,000.00</b>
<b>2009-2010</b>	Pipeline route to Bee Sting Reservoir constructed – brush cleared for road around Reservoir. Pipeline to be installed in 2011	<b>\$8,500.00</b>
	Material removed at Haga #4 reservoir site	<b>\$1,500.00</b>
<b>2010</b>	Stream flow measurement	<b>\$350.00</b>

**2. Compliance with terms and conditions of the permit and/or previous extension.**

Stream measurement in 2010

RECEIVED

JAN 04 2011

**3. Total number of acres irrigated to date = 107 pri, 18.1 sup (if applicable)**

WATER RESOURCES DEPT  
SALEM, OREGON

**4. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit, if any, made to date.**

Maximum rate used to date = 2.75 cfs (cubic feet per second), or

Maximum rate used to date = \_\_\_\_\_ gpm (gallons per minute), or

Acre Feet stored to date = 523 AF

*Report the rate in the same units of measurement as specified in the permit, being cfs (cubic feet per second), gpm (gallons per minute) or AF (acre-feet). Do not provide daily, monthly or annual water volume totals.*

Signature Ponny O. Haga

Date 12/30/10

*For OWRD use only*

Diligence Shown  Yes  No

Date Public Noticed: 6-14-2011

Reviewed by: ALR

Date: 10/29/10 7-26-2011  
sup

# Jordan Engineering

Structural-Civil-Geotech

460 Jordan Lane  
Roseburg, OR 97471  
541-673-1931

Oregon Water Resources Department  
% Mr. Jerry Gainey  
725 Summer Street NE, Suite A  
Salem Oregon 97301

Progress Report, Extension of Time:

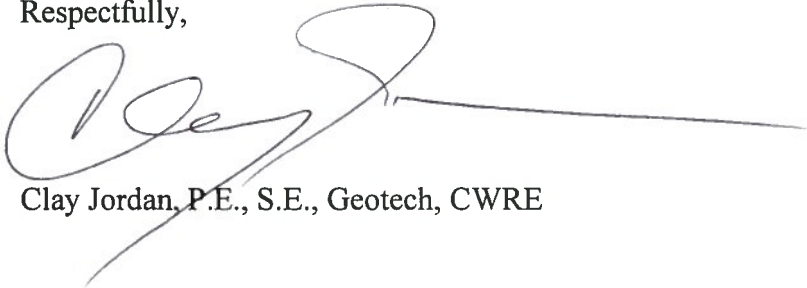
1. Application R-69708  
Permit R-12928
2. Application S-69654  
Permit S-53703

January 3, 2011

Mr. Gainey:

Inclosed are two Progress Reports for the two permit extension as noted above. Please process letting the applicant and me know if there are any omissions and/or short comings associated with the so noted permits' extension of time.

Respectfully,



Clay Jordan, P.E., S.E., Geotech, CWRE

file: o wrd progress report-2010.wpd  
cc: Windhurst Road Watering Corporation

**RECEIVED**

JAN 04 2011

WATER RESOURCES DEPT  
SALEM, OREGON

## Route Slip.....Extension of Time Progress Report

**1. Extension Specialist: Progress Report Review**

Date Report Received: 1/4/11

Report Complete: YES

**2. Jonnine: Publish on the Department's Public Notice**

320 OAR Division under which Progress Report was required

- Publish on Public Notice Date: 6/14/11 ALS
- Update workflow in WRIS (Fill in Extension Checkpoint 'Completed Date' in appropriate work flow record) 2010
- Return to Extension Specialist

**3. Extension Specialist: Prepare Progress Report Confirmation Letter**

*See progress report procedures.doc*

(date / mail out after 30 day comment period)

**Date Confirmation Letter Needed:**

- Update Progress Report Worksheet.xls
- Send to permit holder + anyone who made comments after 30 day public notice  
CC: Watermaster \_\_\_\_\_  
File \_\_\_\_\_

**4. Return file to cabinet**

---

### PUBLIC NOTICE INFORMATION

Permit Holder's Name: WINDHURST ROAD WATERING CORP.

Application: S-69654

Permit: S-53703

County: Coos

Source: Bill Creek, Stored Under Permit R-12928

Use: Cranberry Operations

## Jerry Sauter

---

**From:** Kcjengineer@aol.com  
**Sent:** Tuesday, November 02, 2010 12:34 PM  
**To:** jerry.k.sauter@state.or.us; normthewaterguy@charter.net  
**Subject:** Windhurst: progress reports, R-12928 & S-53703

R-69708 S-69654

Jerry:

Per our phone call be advised the two reports were to be submitted by Oct. 1, 2010. In awareness of its complications we have been asked by the clients to address these two reports. There are several members of individual ownerships that we will need to gather information from to compile a respectful report. It is therefore requested that the reports submitting date be extended for several weeks. We apology for any inconveniences. Please let me know if this is acceptable.

Thanks, Clay Jordan



Oregon Water Resources Department  
Water Rights Division



Water Rights Application  
Number S-69654

**Final Order**  
**Extension of Time for Permit Number S-53703**

**Appeal Rights**

**This is a final order in other than a contested case.** This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

**Application History**

Permit S-53703 was issued by the Department on October 10, 2000. The permit called for complete application of water to beneficial use by October 1, 2005. On March 6, 2009 Windhurst Road Watering Corporation submitted to the Department an Application for Extension of Time for Permit S-53703. In accordance with OAR 690-315-0050(2), on September 1, 2009 the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2014. The protest period closed October 16, 2009 in accordance with OAR 690-315-0060(1). No protest was filed.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to the following conditions:

## CONDITIONS

### 1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2010**. *A form will be enclosed with your Final Order.*

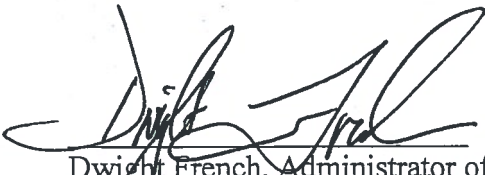
- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

### Order

The extension of time for Application S-69654, Permit S-53703, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use is extended to October 1, 2014.

DATED: November 10, 2009

  
Dwight French, Administrator of  
Water Rights and Adjudications  
*for*  
Phillip C. Ward, Director

- 
- If you have any questions about statements contained in this document, please contact Scott Kudlemyer at (503) 986-0813.
  - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900
-

## Mailing List for Extension FO Copies

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Note: Include a copy of the "Important Notice" document along with the original copy of the Final Order being sent to the permit holder.

---

**FO Date: November 10, 2009**

**Copies Mailed**

**Application S-69654  
Permit S-53703**

By: MS  
On: 11-12-09

**Original mailed to permit holder**

Windhurst Road Watering Corporation  
PO Box 503  
Bandon, OR 97411

**Copies sent to:**

1. WRD - App. File S-69654/ Permit S-73503
2. WRD - Watermaster District 19, Mitch Lewis
3. WRD - SWR Regional Manager, Bruce Sund
4. ~~WRD - Support Staff, Salem~~

**Fee paid as specified under ORS 536.050 to receive copy:**

5. None

**Receiving via e-mail (10 AM day of signature date)**

6. None

**If Progress Reports are included:**

Add record to Progress Report tracking sheet.xls Done: by SA Date 11/3/09

CASEWORKER: SBK

Oregon Water Resources Department  
Water Rights Division



Water Rights Application  
Number S-69654

**Final Order**  
**Extension of Time for Permit Number S-73503**

**Appeal Rights**

**This is a final order in other than a contested case.** This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

**Application History**

Permit S-73503 was issued by the Department on October 10, 2000. The permit called for complete application of water to beneficial use by October 1, 2005. On March 6, 2009 Windhurst Road Watering Corporation submitted to the Department an Application for Extension of Time for Permit R-12928. In accordance with OAR 690-315-0050(2), on September 1, 2009 the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2014. The protest period closed October 16, 2009 in accordance with OAR 690-315-0060(1). No protest was filed.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to the following conditions:



## CONDITIONS

### 1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2010**. *A form will be enclosed with your Final Order.*

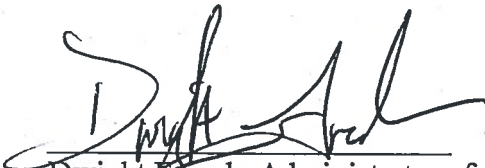
- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

### Order

The extension of time for Application S-69654, Permit S-53703, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use is extended to October 1, 2014.

DATED: November 3, 2009

  
Dwight French, Administrator of  
Water Rights and Adjudications  
for  
Phillip C. Ward, Director

- 
- If you have any questions about statements contained in this document, please contact Scott Kudlemyer at (503) 986-0813.
  - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900
-

## Mailing List for Extension FO Copies

---

Note: Include a copy of the "Important Notice" document along with the original copy of the Final Order being sent to the permit holder.

---

**FO Date: November 3, 2009**

**Copies Mailed**

**Application S-69654  
Permit S-53703**

By: SPS  
On: 11/2/09

**Original mailed to permit holder**

Windhurst Road Watering Corporation  
PO Box 503  
Bandon, OR 97411

**Copies sent to:**

1. WRD - App. File S-69654/ Permit S-73503
2. WRD - Watermaster District 19, Mitch Lewis
3. WRD - SWR Regional Manager, Bruce Sund
4. ~~WRD - Support Staff, Salem~~

**Fee paid as specified under ORS 536.050 to receive copy:**

5. None

**Receiving via e-mail (10 AM day of signature date)**

6. None

**If Progress Reports are included:**

Add record to Progress Report tracking sheet.xls Done: by SK Date 10/30/09

CASEWORKER: SBK

**Oregon Water Resources Department  
Water Rights Division**

**Application for Extension of Time**



In the Matter of the Application for an Extension of Time )  
for Permit S-53703, Water Right Application S-69654 ) PROPOSED FINAL ORDER  
in the name of Windhurst Road Watering Corporation. )

---

**Permit Information**

**Application File S-69654 Permit S-53703**

Basin: 17 – South Coast / Watermaster District 19

Date of Priority: June 30, 1988

**Authorized Use of Water**

Source of Water: Bill Creek, a tributary of Bear Creek, and legally stored water under Permit R-12928.  
Purpose of Use: Cranberry Operations on 162.4 Acres, Agricultural Use on 27.7 Acres, and Supplemental Cranberry Operations on 18.1 Acres.  
Maximum Rate: 614 Acre-Feet of stored water (AF)

---

**This Extension of Time request is being processed in accordance with Oregon Administrative Rule Chapter 690, Division 315**

***Please read this Proposed Final Order in its entirety as it contains additional conditions not included in the original permit.***

This Proposed Final Order applies only to Permit S-53703, water right Application S-69654  
A copy of Permit S-53703 is enclosed as Attachment 1.

## Summary of Proposed Final Order for Extension of Time

### The Department proposes to:

- Grant an extension of time to apply water to full beneficial use from October 1, 2005 to October 1, 2014.
- Make the extension subject to certain conditions set forth below.

### ACRONYM QUICK REFERENCE

Department – Oregon Department of Water Resources  
PFO – Proposed Final Order

#### Units of Measure

cfs – cubic feet per second  
gpm – gallons per minute  
AF – acre-feet

### AUTHORITY

Generally, see **ORS 537.230** and **OAR Chapter 690 Division 315**.

**ORS 537.230(3)** provide in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

**ORS 539.010(5)** provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

**OAR 690-315-0040** provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

**OAR 690-315-0050(6)** allows the Department, for extensions exceeding five years, to establish checkpoints to determine if diligence is being exercised in the development and perfection of the water use permit. Intervals between checkpoints will not exceed five year periods.



## **FINDINGS OF FACT**

### **Background**

1. Permit S-53703 was granted by the Department on October 10, 2000. The permit authorizes the use of 614.0 AF of stored water, diverted from Bill Creek, a tributary of Bear Creek. The combined diversion rate of stored water under this permit and Permit R-12928 shall not exceed 2.75 cfs. Water appropriated under this permit is for cranberry operations on 162.4 acres, agricultural use on 27.7 acres and supplemental cranberry operations on 18.1 acres. The permit specified complete application of water was to be made on or before October 1, 2005.
2. The permit holder submitted an "Application for Extension of Time" to the Department on March 6, 2009 requesting the time to apply water to full beneficial use under the terms of Permit S-53703 be extended from October 1, 2005 to October 1, 2014. This is the first permit extension requested for Permit S-53703.
3. Notification of the Application for Extension of Time for Permit S-53703 was published in the Department's Public Notice dated March 17, 2009. No public comments were received regarding the extension application.

### **Review Criteria [OAR 690-315-0040]**

*The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0040. This determination shall consider the applicable requirements of ORS 537.230<sup>1</sup>, 537.248<sup>2</sup> and/or 539.010(5)<sup>3</sup>.*

### **Complete Extension of Time Application [OAR 690-315-0040(1)(a)]**

4. On March 6, 2009 the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

### **Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]**

5. Actual construction of the water system began prior to the October 1, 2001 deadline specified in the permit.

### **Duration of Extension [OAR 690-315-0040(1)(c)]**

*Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.*

---

<sup>1</sup>ORS 537.230 applies to surface water permits only.

<sup>2</sup>ORS 537.248 applies to reservoir permits only.

<sup>3</sup>ORS 539.010(5) applies to surface water and ground water permits.

6. As of March 6, 2009 the remaining work to be completed consists of applying for Extensions of Time for Manicke Ponds 1, 2, 3, 4, completing two stream flow measurements to aide in the development of a flow rating curve, installing Staff gages in all Scherer and Haga ponds, completing Scherer Reservoir #7, enlarging Scherer Reservoirs # 1 and #2, completing Haga Reservoir #1 and Bee Sting Reservoir, constructing Richert Reservoirs #1 and #2, constructing up to an additional 162.4 acres of bogs and applying water to full beneficial use.
7. Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 1, 2014, to accomplish the application of water to beneficial use under the terms and conditions of Permit S-53703 is both reasonable and necessary.

**Good Cause [OAR 690-315-0040(1)(d)]**

*The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0040(2).*

**Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]**

*The Department's determination of reasonable diligence shall consider the requirements set forth under OAR 690-315-0040(3)(a-d). In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:*

**Amount of Construction [OAR 690-315-0040(3)(a)]**

8. Work was accomplished within the time allowed in the permit or previous extension as follows:
  - a. Construction of the water system began prior to the October 1, 2001 deadline specified in the permit.
  - b. Work was completed (specified in the Application for an Extension of Time) during the original development time frame under Permit S-53703.

**Beneficial Use of Water [OAR 690-315-0040(3)(b)]**

9. The following beneficial use was made of the water during the permit or previous extension time limits:
  - a. Since the issuance of Permit S-53703 on October 10, 2000 the permit holder has stored 523 AF of water for primary irrigation of 106.2 primary acres and 18.1 acres of supplemental irrigation.

**Compliance with Conditions [OAR 690-315-0040(3)(c)]**

10. The water right permit holder's conformance with the permit or previous extension conditions.

- a. The Department has considered the permit holder's compliance with conditions, and has identified the following concern, the record does not show that a flow rating curve has been developed in the 10 cfs to 25 cfs range downstream of the confluence of Bill Creek and Bear Creek..
- b. Failure to comply with permit conditions constitutes illegal use of water. In order to legally perfect the use of water under this permit, the permit holder must demonstrate that all conditions of the permit have been satisfied.

Financial Investments [OAR 690-315-0040(3)(d)]

11. Financial investments made toward developing the beneficial water use.
  - a. As of March 6, 2009 the permit holder has invested approximately \$2,827,067 which is approximately 80 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional \$694,000 investment is needed for the completion of this project.

Cost to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b)]

12. As of March 6, 2009 the permit holder has invested approximately \$2,827,067 which is approximately 80 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional \$694,000 investment is needed for the completion of this project.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

13. The Department has found good faith of the appropriator under Permit S-53703.

The Market and Present Demands for Water [OAR 690-315-0040(2)(d-e)]

*The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:*

14. The amount of water available to satisfy other affected water rights and scenic waterway flows; special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d); or the habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife [OAR 690-315-0040(4)(a-c)].
  - a. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit S-53703; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined at such time that such

application for a new water right is submitted. The point of diversion is located on Bill Creek, a tributary of Bear Creek. Bill Creek is not located within or above any state or federal scenic waterway, is located within an area ranked "high" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife. Bill Creek is not listed by the Department of Environmental Quality as a water quality limited stream.

15. Economic investment in the project to date [OAR 690-315-0040(4)(d)].
  - a. As of March 6, 2009 the permit holder has invested approximately \$2,827,067
16. Other economic interests dependent on completion of the project [OAR 690-315-0040(4)(e)].
  - a. None have been identified.
17. Other factors relevant to the determination of the market and present demand for water and power [OAR 690-315-0040(4)(f)].
  - a. None have been identified
18. OAR 690-315-0050(6) requires the Department to place a checkpoint condition on this extension of time in order to ensure diligence is exercised in the development and perfection of the water use permit. A "Checkpoint Condition" is specified under Item 1 of the "Conditions" section of this PFO to meet this condition.

**Fair Return Upon Investment [OAR 690-315-0040(2)(f)]**

19. Use and income from the permitted water development results in reasonable returns upon the investment made to date.

**Other Governmental Requirements [OAR 690-315-0040(2)(g)]**

20. Delay in the development of this project was not caused by any other governmental requirements.

**Unforeseen Events [OAR 690-315-0040(2)(h)]**

21. Unforeseen events extended the length of time needed to fully develop and perfect Permit S-73503, in that the permit holders previous water right consultant died unexpectedly forcing the permit holder to seek a new consultant and bring him up to date on the project.

**CONCLUSIONS OF LAW**

1. The applicant is entitled to apply for an extension of time to complete construction and/or

completely apply water to the full beneficial use pursuant to ORS 537.230(3).

2. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).
3. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).
4. Full application of water to beneficial use can be accomplished by October 1, 2014<sup>4</sup>, as required by OAR 690-315-0040(1)(c).
5. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).
6. As required by OAR 690-315-0050(6) and as described in Finding 18 above, the Department has established, as specified in the "Conditions" section of this PFO (Item 1), progress checkpoints in order to ensure future diligence is exercised in the development and perfection of Permit S-73503.

### **Proposed Order**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

- Extend the time to apply water to beneficial use under Permit S-73503 from October 1, 2005 to October 1, 2014.

Subject to the following conditions:

---

<sup>4</sup>Pursuant to ORS 537.230(3), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and the claim of beneficial use.



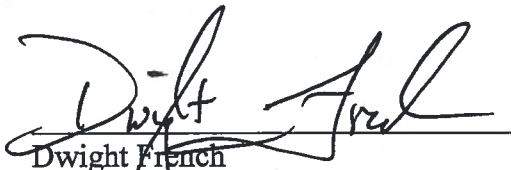
## CONDITIONS

### 1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2010**. *A form will be enclosed with your Final Order.*

- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

DATED: September 1, 2009

  
Dwight French  
Administrator  
Water Rights & Adjudications Division

*If you have any questions,  
please check the information  
box on the last page for the  
appropriate names and  
phone numbers.*

### Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **October 16, 2009** being 45 days from the date of publication of the proposed final order in the Department's weekly notice.
2. A written protest shall include:
  - a. The name, address and telephone number of the petitioner;
  - b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;

- c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
  - d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
  - e. Any citation of legal authority supporting the petitioner, if known;
  - f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
  - g. The applicant or non-applicant protest fee required under ORS 536.050.
3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:
- a. Issue a final order on the extension request; or
  - b. Schedule a contested case hearing if a protest has been submitted, and:
    - 1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
    - 2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

- 
- If you have any questions about statements contained in this document, please contact Scott Kudlemyer at 503-986-0813.
  - If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0820.
  - If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
  - Address any correspondence to :      Water Rights and Adjudications Division  
725 Summer St NE, Suite A  
Fax: 503-986-0901                      Salem, OR 97301-1266
-

**Mailing List for Extension PFO Copies**

**PFO Date: September 1, 2009**

**Application S-69654  
Permit S-53703**

**Copies Mailed**

By: AS  
On: 9/1/09

**Original mailed to Applicant:**

Windhurst Road Watering Corporation  
PO Box 503  
Bandon, OR 97411

**Copies sent to:**

1. WRD - App. File S-69654/ Permit S-53703
2. WRD - Watermaster District 19, Mitch Lewis

**Fee paid as specified under ORS 536.050 to receive copy:**

3. None

**Receiving via e-mail (10 AM Tuesday of signature date)**

4. None

CASEWORKER: SBK



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

# Application for Extension of Time for a Water Right Permit

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

*A separate extension application must be submitted for each permit as per  
 OAR 690-315-0020(2).*

*This application and a summary of review criteria and procedures that are generally applicable to this  
 application are available at <http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml>.*

**I, Windhurst Road Watering Corporation**

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

P.O. Box 503                      Bandon                      OR                      97411  
 ADDRESS                      CITY                      STATE                      ZIP

(541) 347-3062  
 PHONE                      E-MAIL ADDRESS

the permit holder of:              Application Number   S   -   69654  

Permit Number   S   -   53703  

[OAR 690-315-0020(3)(b)]

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do hereby request that the time in which to:

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 SALEM, OREGON

complete construction (of diversion/appropriation works and/or purchase and installation of the  
 equipment necessary to the use of water), which time now expires on October 1, \_\_\_\_\_, be  
 extended to October 1, \_\_\_\_\_,

and/or the time in which to:

apply water to full beneficial use under the terms and conditions of the permit, which time now  
 expires on October 1,   2005  , be extended to October 1,   2014  .

**Before submitting your Application for Extension of Time, make sure the following items are included:**

- This completed Application for Extension of Time.
- Statutory fee of \$350.
- Signature page (last page of this Application for Extension of Time).
- All supporting documentation and/or evidence referenced in the Application for Extension of Time.

**MAIL COMPLETED APPLICATION**

**along with the**

**\$350 STATUTORY FEE TO:**

**Water Resources Department  
Attn: Water Right Permit Extensions  
725 Summer Street NE, Suite A  
Salem, Oregon 97301**

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**GENERAL TIPS:**

- Request the reasonable amount of time necessary to fully complete the water construction project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.
- A separate Application for Extension of Time must be submitted for each permit. OAR 690-315-0020(2).
- An instruction sheet (Instructions for Filling Out Extension of Time Application for Permits) provides details that will help you answer each question on the application. Permit extensions

are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at:  
<http://www.wrd.state.or.us/OWRD/LAW/index.shtml>.

- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 315-0020(3)(n).
- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights and Adjudications Division.
- Once an Application for Extension of Time is received by OWRD, it will be reviewed for completeness. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

**Reference Materials Needed to Complete this Application:**

- The water right permit. If needed, a copy of the water right permit can be downloaded from the Department's Website at <http://www.wrd.state.or.us> (find the link to the Water Rights Information System (WRIS)). Or, a copy of the permit (or other documents) may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).
- Documentation which demonstrates compliance with permit conditions (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification;; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

**Answer the Following Questions to Complete this Application for Extension of Time**

1. **Did the actual construction of the water system/well drilling begin within the time specified in the permit?** [yes/no] YES [OAR 690-315-0020(3)(d)]



*TIP:* Not all permits specify a date by which construction was to begin.

**Date construction began is:** 1960

**Details of construction:** Manicke Reservoir #4 constructed

**Start of bog construction** \_\_\_\_\_

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2. Permits typically contain standard or special conditions that must be satisfied to lawfully develop and use permitted water. In the development of this water right, have you satisfied the conditions contained in your permit? [yes/no] NO

A) Describe how you have complied with each condition contained in the original permit [and, if applicable, each condition contained in any order approving a permit amendment and/or a final order approving a prior extension of time]. Include the date when the condition was satisfied.



**TIP:** The instruction sheet for the Application for Extension of Time provides an explanation of the typical conditions that must be addressed in this question.

### CHART-A

Condition No. **	Date Satisfied	Describe How Permit Condition Has Been Satisfied
1	2000	Staff gage installed on Bear Cr. on bridge downstream from confluence of Bills Cr.
3	1998	Weir 7 staff gage installed at POD from Bills Creek
4	2001	Totalizing flow meter installed at POD from Bills Creek, Reports submitted beginning Feb. 2002
5	2002	Approved fish screen installed at POD from Bills Creek.
6	2002	Staff gages installed in most ponds, including Windhurst Reservoir

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\*\* Condition No: Hand-number each condition on a copy of your permit (and, if applicable, permit amendment and prior extension).

B) If you have NOT complied with all applicable conditions, explain the reasons why and indicate with a date certain (in the near future) when compliance will occur.

### CHART-B

Condition No.**	Date Will Comply	Explain Why Each Permit Condition Has NOT Been Satisfied
2	2009	Measurements – we understood our prior consultant, M. John Youngquist, had made some measurements prior to his death, however, we can find no records of measurements. Current consultant, Jordan Engineering, made inspection of gage on 8/20/08, but water was too low to measure. It is hoped that measurements can be accomplished in 2009.
6	2009	Install staff gages in Scherer and Haga ponds

\*\* Condition No: Hand-number each condition on a copy of your permit (and, if applicable, permit amendment and prior extension).

1960) Provide evidence of physical progress made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-C); and if applicable, within the time period of the most recent extension granted (CHART-D).

1960) CHART-C (below) must be completed for all Application for Extension of Time requests. *Use chronological order.*

### CHART-C

INSERT DATES	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED <i>List any work done before the permit was issued – eg. Well drilled.</i>	COST*
1960	Construct Manicke Res. #4	5,000
1968	Construct Haga Res. #4	2,500
1969	Construct Richert Res. #4	8,000
1971	Construct Scherer Res. #5 & #1	9,000
1972	Construct Richert Res. #2	8,000
1975	Construct Scherer Res. #8, enlarge existing reservoir	7,000
1980	Construct Manicke Res. #1 & #2	15,000
1983	Construct Scherer Res. #6	8,500
1988	Construct Manicke Res. #3	10,000
1989	Construct Haga Res. #2	4,500
1990	Construct Scherer Res. 4 & re-sand bogs	9,000
1993	Construct Haga Res. #3	6,000
1993	Construct Richert Res. #3	15,000
1996	Partial construction of Bee Sting Res. (Haga)	1,500
2000	Construct Scherer Res. #3	5,500
1998-2000	Construct Windhurst Res., install piping, weir, staff gages, meter	1,600,000
1960-2000	Construct 100 acres of bogs, pumps, pipes, electrical, sprinklers	1,000,000

INSERT DATES	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED <i>and PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER</i> <i>List work/actions done during the permitted time period.</i>	COST*
10/10/2000	<b>The permit was signed</b> - find date above signature on last page of permit.	
10/10/2001	<b>The permit specified "Actual Construction Work" shall begin ("A-Date")</b> - not all permits contain this date.	
2001	Install pump, electrical & valves for Windhurst Res.	12,050

2001	Partial excavation of Haga Res. #1	4,000
2002	On site geologist during filling of Windhurst Reservoir	7,900
2002	Fish screen installed on Bills Cr.	2,617
2004	Partial excavation of Scherer Res. #2 for sanding bogs.	4,000
2001-2005	Construct approximately 6.2 acres of bogs, pumps, electrical, pipes sprinklers	62,000
10/1/2005	The permit specified complete application of water to the use shall be made ("C-Date") - all permits contain this date.	

<b>WORK ACCOMPLISHED AFTER "C-DATE"</b>		
INSERT DATES	<i>COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
2008	Construct approximately 3 acres of bogs, does not include sprinklers, piping, pumps or electrical	20,000
<b>Total Cost to Date</b>		<b>\$2,827,067.00</b>

\* If exact cost is not known, you must provide your best estimate.

B) If this is not your 1st Application for Extension of Time request, fill out CHART-D below (in addition to CHART-C above). Use chronological order.

### CHART-D

INSERT DATES	<b>WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD</b> <i>List all work done during the last authorized extension period.</i>	COST*
10/1/___	"Extended From" date for complete application of water used in the 1 <sup>st</sup> (or the most recent) Application for Extension of Time.	
NA	NA	
10/1/___	"Extended To" date for complete application of water resulting from the 1 <sup>st</sup> (or the most recent) Application for Extension of Time.	

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INSERT DATES	<b>WORK ACCOMPLISHED AFTER THE LAST EXTENSION PERIOD EXPIRED</b> <i>List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
<b>Total Cost to Date</b>		<b>\$2,827,067.00</b>

\* If exact cost is not known, you must provide your best estimate.

[OAR 690-315-0020(3)(f)]

4. Cost of project to date:                     \$2,827,067.00                      
 (The total cost from CHART-C and CHART-D)

[OAR 690-315-0020(3)(e)(B)]

5. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit and/or prior extensions of time, if any, made to date.



*TIP:* Report the rate in the same units of measurement as specified in the permit, being cfs (cubic feet per second), gpm (gallons per minute) or AF (acre-feet – usually only specified on a reservoir water right). Do not provide daily, monthly or annual water use totals.

Maximum rate = \_\_\_\_\_ cfs (cubic feet per second) or,

Maximum rate = \_\_\_\_\_ gpm (gallons per minute) or,

Acre Feet Stored =   523   AF

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[OAR 690-315-0020(3)(e)(C)]

6. Provide the total number of acres irrigated to date under this permit.

Total acres irrigated to date:   106.2 Primary, 18.1 Supplemental  

[OAR 690-315-0020(3)(j)]



7. Provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

**CHART-E**

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2009-2014	Manicke – Extensions to all ponds (1, 2, 3 &4)	20,000
2009-2014	Scherer – install staff gages in all ponds (2009), complete Res. #7 and enlarge Res. #1 & 2	22,000
2009-2014	Haga – Install staff gages (2009), complete Res. #1 & Bee Sting Res.	20,000
2009-2014	Richert – Construct Res. #1 & 2, pumps , plumbing	32,000
2009-2014	Construct additional bogs up to 162.4 acres	600,000 (est.)
<b>Year:</b>	<b>Intend to apply water to full beneficial use under the terms and conditions of this permit.</b>	
<b>Total Cost</b>		<b>\$694,000</b>

[OAR 690-315-0020(3)(g)]

8. Estimated remaining cost to complete the project:           \$694,000            
 (The total cost from CHART-E)

[OAR 690-315-0020(3)(h)]

9. List the reasons why the project was not constructed, and/or water was not beneficially used within permit time limits. Provide supporting information for the reason(s) that best fits your circumstances.

A) The project is of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit.

This is a very large and expensive project that was planned to be phased in over a  
Longer period of time than allowed by the permit.

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B) The financial resources needed to develop the project precluded completion of the project within authorized time frames.

Financial resources were limited due to unstable price cranberries. Still recovering  
From market crash.

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**C) Good faith attempts to comply with permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delayed completion of the project.**

**D) Acts of God or other unforeseen events delayed full development of the water system and use of water within the authorized time frames.**

Previous water right consultant, M. John Youngquist died unexpectedly. Securing  
New consultant, Jordan Engineering, and getting them familiar with the project  
Has taken a considerable amount of time.

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**[OAR 690-315-0020(3)(k)]**

**10. Justify the time requested to complete the project and/or apply the water to full beneficial use.** Your justification should combine information from your answers from Questions 2, 3-A, 3-B, 7 and 9 of this Application for Extension of Time, and should also include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

---

We need sufficient time to work with our consultant to insure we comply with all permit  
Conditions and time to enlarge existing ponds and construct new ones and store the water



And to construct additional bogs and put the water to full beneficial use.

**11. Provide any other information you wish OWRD to consider while evaluating your Extension of Time Application.**

We are unable to separate costs from this permit and permit R-12928. Please consider  
Both permits together.

Cost for bogs was estimated at a conservative \$10,000 per acre. Our records are  
Incomplete for cost of bog construction.

**I am the permit holder, or have authorization from the permit holder, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.**

*Ronny D. Hoga*  
Signature

2-23-09  
Date

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# Extension PFO Checklist for Other than Muni or Quasi-Municipal

Water Use Permits  
(OAR 690-315-0010 through OAR 690-315-0060)

Application: S- 69654 Permit: S- 53703 Permit Amendment? No  Yes  T- \_\_\_\_\_  pending  approved

Permit Holder's Name: Windhurst Road Watering Corporation

Permit Holder's Mailing Address: PO Box 503 Bandon, OR 97411 email \_\_\_\_\_

Phone Number: 541-347-3062

POD Location: Township 29 S Range 14 W Section 3  $\frac{1}{4}$  NESW

Drainage Basin: 17 County: Coos Watermaster District: 19 Watermaster: Mitch Lewis

Date Permit was issued: 10/10/2000

Priority Date: 6/30/1988

Date of PN: 3/17/2009

Source: Bill Creek, A tributary of Bear Creek, and legally stored water under permit R12928

Use: Cranberry operations on 162.4 acres, agricultural use on 27.7 acres and supplemental cranberry operations on 18.1 acres

"Q": 2.75 cfs

Orig "A" Date: 10/1/2001

Orig "B" Date: 10/1/

Orig "C" Date: 10/1/2005

Extension request rec'd: 3/6/2009

Last Authorized "B" Date: 10/1/

Last Authorized "C" Date: 10/1/

Request Number (1, 2, 3...): 1

Proposed "B" Date: 10/1/

Proposed C Date: 10/1/2014

**Conditions of Permit:**

Condition Met?	Condition Not Met?	Permit Condition
<input checked="" type="checkbox"/>	<input type="checkbox"/>	1. Install staff gauge downstream from confluence of Bear creek and Bill creek
<input type="checkbox"/>	<input checked="" type="checkbox"/>	2. Minimum two streamflow measurements per year
<input checked="" type="checkbox"/>	<input type="checkbox"/>	3. Install standardized weir and staff gauge at point of diversion
<input checked="" type="checkbox"/>	<input type="checkbox"/>	4. Install totalizing flow meter before water use, maintain monthly water use records and report water use annually from Bill creek
<input checked="" type="checkbox"/>	<input type="checkbox"/>	5. Fish screens to be installed at Bill creek diversion point. (see reverse for additional conditions)

**Factors to consider in determining "Reasonable Diligence" [OAR 690-315-0040(3)]:**

- Yes  No
- Work was accomplished within the time allowed in the permit or previous extension
  - Water right permit holder conformed with the permit or previous extension conditions
  - Financial investments were made toward developing the beneficial water use. *80.3%*
    - Amount Invested to date: \$2,827,067 Estimated Remaining Cost: \$694,000 (*See #11 on Application*) *se*
  - Beneficial use made of the water during the permit or previous extension time limits
    - Permit holder has beneficially used 523  cfs  gpm  af of the total permitted quantity of water on 124.3 acres

Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes  No

Application: S- 69654 Permit: S- 53703 Township 29 S Range 14W Section 3

**Determination of the market and the present demand for water or power to be supplied:**

Identify the closest surface water or localized water basin. Bill Creek  
Ground Water Permits: Is the POA located...  
Surface Water Permits: Is the POD located...

**Yes No**

- above a state scenic waterway? Name \_\_\_\_\_ Source: OWRD "Areas Above State Scenic Waterways" Map
- within a stream segment designated as a federal wild and scenic river? Source: www.rivers.gov/wildriverslist.html
- within a sensitive, threatened or endangered species area Source: "/gisdata/dev/projects/salmon/div33map.aml"
- within a critical or limited Ground Water Area? Name of area \_\_\_\_\_
- within a Withdrawn Area? Name of area \_\_\_\_\_
- in a waterbody listed on the DEQ Section 303(d) List of Water Quality Limited Areas? Date added to list \_\_\_\_\_
- within an area ranking low / moderate / high / highest for stream flow restoration needs Source: OWRD "Streamflow Restoration Needs" Maps (by region)

**Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?**

Yes... "Good Cause" can be found.  Approval of Extension Request  
No ... "Good Cause" *cannot* be found.  Denial of Extension Request

**Conditions to be included in Extension PFO (if applicable)? Yes  No**

(NOTE: Check the file record for documentation to add a condition(s) at the extension stage.)

- 5-year Progress Report Checkpoints (Years: 2014)
- Other: \_\_\_\_\_

**Footnote regarding Claim of Beneficial Use. Choose the appropriate language below and insert as a footnote in the PFO:**

- COBU Requirement - Surface/Ground Water - on or prior to July 9, 1987**  
"For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625."
- COBU Requirement - Surface Water - post July 9, 1987**  
"Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."
- COBU Requirement - Ground Water - post July 9, 1987**  
"Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

**NOTES:**

6. Before water use, full range / stage staff gauge must be installed

**Extension "PFO" Dates**

Mailing / Issuance Date: \_\_\_\_\_ Protest Deadline Date: \_\_\_\_\_

Reviewer's Name: \_\_\_\_\_ Date: \_\_\_\_\_

*Jordan Engineering*  
Structural & Civil

460 Jordan Lane  
Roseburg, OR 97471  
541-673-1931

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

Application for Extension of Time  
Windhurst Road Watering Corporation  
Permits:  
R-12928 & S-53703

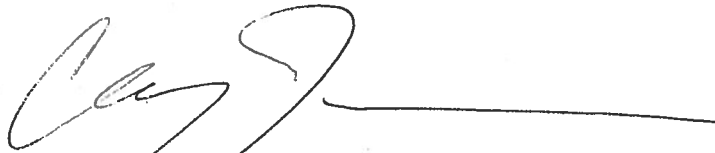
March 4, 2009

Sir:

Inclosed are the two extension of time applications with supporting as issued permits and a check #1030 in the sum of \$700 (\$350 +\$350). The copies of permits have added hand numbers at conditions reflecting as noted in the applications.

Please process as quickly as possible. If there are any questions or corrections please contact either myself and/or my assistant, Mr. Norm Daft.

Respectfully,



Clay Jordan, P.E., S.E., CWRE

file: WRD 2-extensions.wpd  
cc: Mr. Ronny O. Haga  
Mr. Norm Daft

**RECEIVED**

MAR 06 2009

WATER RESOURCES DEPT  
SALEM, OREGON

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JUN - 1 1994

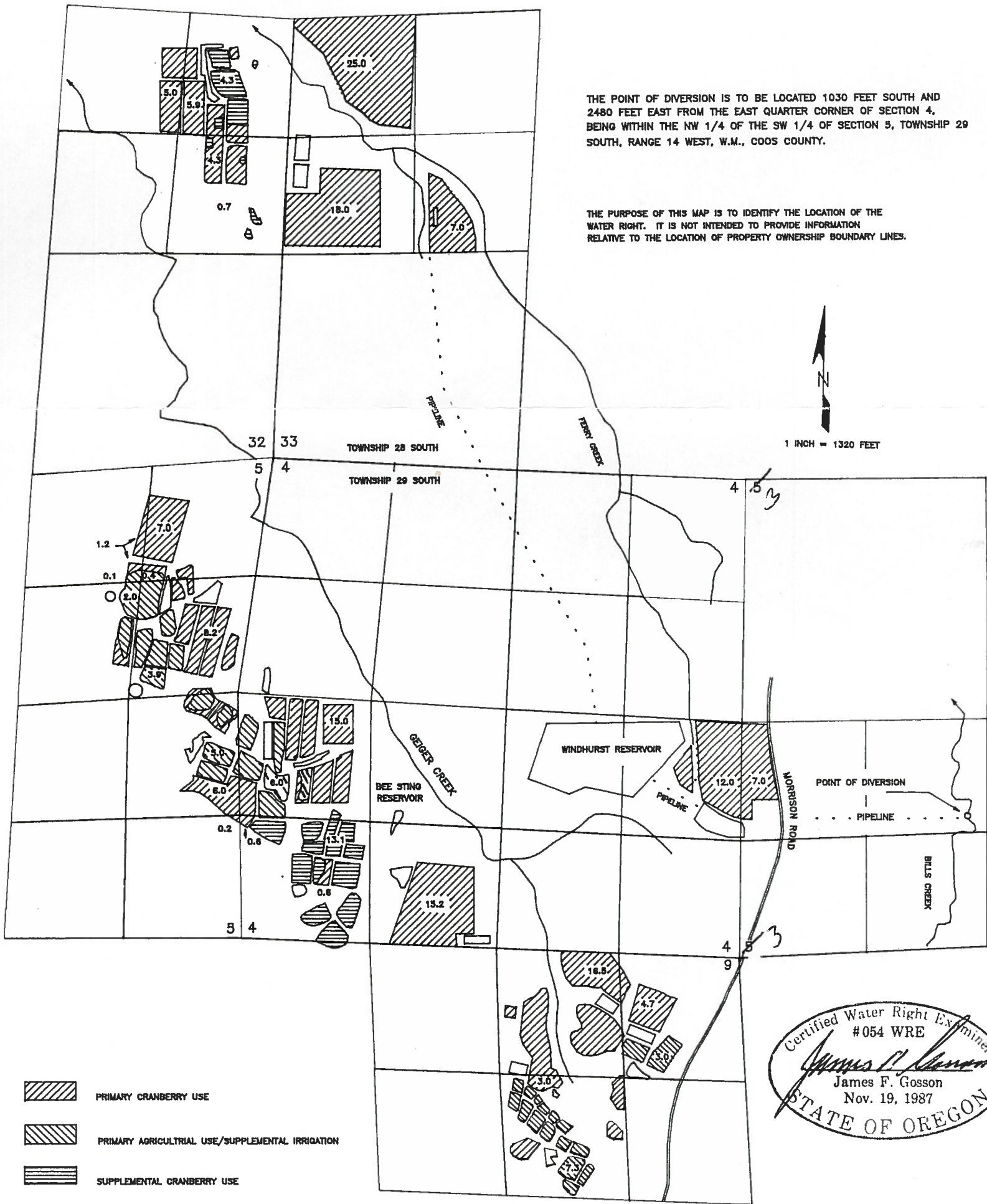
WATER RESOURCES DEPT.  
SALEM, OREGON

NE 1/4 SW 1/4

APPLICATION MAP  
IN THE NAME OF  
WINDHURST ROAD SUB DISTRICT

SECTIONS 32 & 33, T 28 S, R 14 W, WM  
AND

SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM



THE POINT OF DIVERSION IS TO BE LOCATED 1030 FEET SOUTH AND 2480 FEET EAST FROM THE EAST QUARTER CORNER OF SECTION 4, BEING WITHIN THE NW 1/4 OF THE SW 1/4 OF SECTION 5, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY.

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.



Certified Water Right Examiner  
#054 WRE  
*James F. Gosson*  
James F. Gosson  
Nov. 19, 1987  
STATE OF OREGON

Application No. 69654  
Permit No. 53703



STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION  
P.O. BOX 503  
BANDON, OREGON 97411

(541) 347-3062

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-69654

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK, AND LEGALLY STORED WATER UNDER PERMIT R-12928

PURPOSE OR USE: CRANBERRY OPERATIONS ON 162.4 ACRES, AGRICULTURAL USE ON 27.7 ACRES, AND SUPPLEMENTAL CRANBERRY OPERATIONS ON 18.1 ACRES

MAXIMUM RATE/VOLUME ALLOWED: 614.0 ACRE-FEET OF STORED WATER; MAXIMUM INSTANTANEOUS DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED UNDER PERMIT R-12928, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW.

PERIOD OF USE: NOVEMBER 1 THROUGH MAY 31 FROM NATURAL FLOW AND YEAR ROUND FROM STORED WATER ONLY

DATE OF PRIORITY: JUNE 30, 1988

POINT OF DIVERSION LOCATION: BILL CREEK - NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH & 2480 FEET EAST FROM W1/4 CORNER, SECTION 3; STORED WATER FROM 23 RESERVOIRS DESCRIBED IN PERMIT R-12928.

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow



measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing R-69708, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for R-69708, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for R-69708 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<u>*1CRANBERRY</u>	<u>*2AGRICULTURE</u>	<u>*3SUPPLEMENTAL CRANBERRY</u>
NE 1/4 NE 1/4	5.9 ACRES		4.3 ACRES
NW 1/4 NE 1/4	5.0 ACRES		
SE 1/4 NE 1/4	4.3 ACRES		0.7 ACRE

SECTION 32

NW 1/4 NW 1/4	25.0 ACRES
SW 1/4 NW 1/4	18.0 ACRES
SE 1/4 NW 1/4	7.0 ACRES

SECTION 33

TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

NW 1/4 SW 1/4	7.0 ACRES
---------------	-----------

SECTION 3

NW 1/4 SW 1/4	15.0 ACRES	6.0 ACRES	
SW 1/4 SW 1/4	1.2 ACRES		13.1 ACRES

	<u>*1CRANBERRY</u>	<u>*2AGRICULTURE</u>	<u>*3SUPPLEMENTAL CRANBERRY</u>
SE 1/4 SW 1/4	15.2 ACRES		
NE 1/4 SE 1/4	12.0 ACRES		

SECTION 4

NE 1/4 NE 1/4	7.0 ACRES	0.4 ACRE
NW 1/4 NE 1/4	1.2 ACRES	0.1 ACRE
SW 1/4 NE 1/4		2.0 ACRES
SE 1/4 NE 1/4	8.2 ACRES	3.9 ACRES
NE 1/4 SE 1/4	6.0 ACRES	5.0 ACRES
SE 1/4 SE 1/4	0.2 ACRE	

SECTION 5

NE 1/4 NE 1/4	4.7 ACRES	3.0 ACRES
NW 1/4 NE 1/4	16.5 ACRES	
SW 1/4 NE 1/4	3.0 ACRES	7.3 ACRES

SECTION 9

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

\*1 - Use of water is for primary irrigation and agriculture use for Cranberry Operations.

\*2 - Use of water is for primary agriculture use and supplemental Irrigation use for Cranberry Operations.

\*3 - Use of water is for supplemental agriculture use and irrigation use for Cranberry Operations.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion from Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

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

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

#### STANDARD CONDITIONS

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

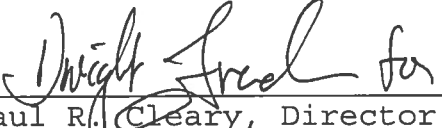
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

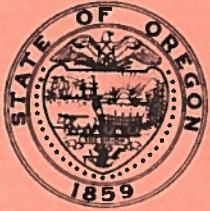
The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2005. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued October 10 , 2000

  
\_\_\_\_\_  
Paul R. Cleary, Director  
Water Resources Department





# 2000

Oregon Water Resources Department  
October 2000 through September 2001  
Annual Water Use - Monthly Quantities Form

# 2001



USER-ID 50180

~~6450~~ 191654, 169708

Facility <input type="checkbox"/>	POD-ID <input type="checkbox"/>	51838-51853 and 51894-51916 all AG/CR		
October - 2000				
November - 2000				
December - 2000				
January - 2001				
February - 2001				
March - 2001				
April - 2001				
May - 2001				
June - 2001				
July - 2001				
August - 2001				
September - 2001				
TOTAL *				

No report in 2001 will begin in 2002

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WATER RESOURCES DEPT.  
SALEM, OREGON

\* Describe the units of measure as G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)

Describe method of measuring the water used: \_\_\_\_\_ . If use is irrigation, total number acres irrigated \_\_\_\_\_

I certify this information is true and accurate to the best of my knowledge.

[Signature]  
Signature

Consultant  
Title

Baader Consulting W.C.O.  
Reporting Entity

02-07-02  
Date



# Oregon

Theodore R. Kulongoski, Governor

**Water Resources Department**  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

March 13, 2009

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Rights Section has received your application for an extension of time for **APPLICATION FILE#: S-69654 (PERMIT#:S-53703 )**. Your application will be reviewed in the near future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

If you have questions concerning your extension of time application, please contact Scott Kudlemyer at (503) 986-0813. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's Internet home page at: "[www.wrd.state.or.us](http://www.wrd.state.or.us)".





**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT  
827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (541) 672-5692  
Email: mjywater@sorcom.com



February 8, 2002

Mary S. Graine, Water Use Program Coordinator  
Oregon Water Resources Department  
158 12<sup>th</sup> Street, NE  
Salem, Oregon 97301

RE: Annual Water Use Reporting - Permit R-12928 and Permit S-53703

Dear Ms. Graine:

This letter is in response to your notice of January 7, 2002. There will not be a report for the 2000 - 2001 water year from the Windhurst Road Watering Corp.

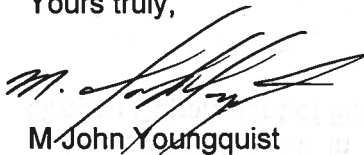
The completion of construction of the main Windhurst Road Reservoir and pump station on Bills Creek was completed in late April, 2001. The applicants pumped only enough water into the reservoir to test the diversion works and lower level conduits in the reservoir. Water was not delivered to the acreage described on permit S-53703 from Bills Creek. Evaporation and seepage data was gathered for technical purposes. The water pumped was in accordance with the memorandum of understanding with the Oregon Department of Fish and Wildlife and permit conditions.

An emergency supply was delivered via metered pipeline to Johnson Creek to mitigate water used from wells by the Ocean Spray Receiving Station. Ocean Spray had a limited license to do accomplish this. A total of 5 acre feet of water was delivered to Johnson Creek during the month of October.

Water use will begin in the 2002 cranberry growing season. This winter measuring devices have been obtained for all pipelines and pumps. During the 2001 season, staff gages were installed in all reservoirs, Bear Creek and Bills Creek. With the exception of the use of 5 acre feet of storage for Ocean Spray, no other water was used in accordance with the two permits noted above.

If you have any questions, please contact me.

Yours truly,



M. John Youngquist

cc: Ron Haga, Chairman Windhurst Road Sub District  
Wayne Scherer, Chairman Bandon Cranberry Water Control District

**RECEIVED**

**FEB 11 2002**

**WATER RESOURCES DEPT.  
SALEM, OREGON**

Application No. Amending 69654

**RECEIVED**

State of Oregon  
WATER RESOURCES DEPARTMENT

JUN - 1 1994

**Application for a Permit to Appropriate Surface Water**

WATER RESOURCES DEPT.  
SALEM, OREGON

Applicant(s) Windhurst Road SubDistrict  
(Please print or type - use dark ink)

Mailing Address: P.O. Box 503  
Bandon, Oregon 97411 (503) 347-~~3663~~ 3062  
City State Zip Daytime Phone No.

I (We) make application for a permit to appropriate the following described waters of the State of Oregon:

1. **SOURCE OF WATER** for the proposed use: Bill Creek,  
a tributary of Bear Creek.

2. **TOTAL AMOUNT OF WATER** to be applied to beneficial use: 10.0 cubic feet per second, OR 4488.3 gallons per minute. If water is to be used from more than one source, give the quantity of water from each: See Supplemental sheet

3. **INTENDED USE(s) OF WATER:** Cranberry use, supplemental cranberry use and agricultural use (See Supplemental sheet)

If for more than one use, give the quantity of water from each source for each use; See Supplemental Sheet

If for DOMESTIC use, state the number of households to be supplied; \_\_\_\_\_

If for MUNICIPAL OR QUASI-MUNICIPAL use, state the present population to be served, and an estimate of the future requirements; (List population projections, water needs, anticipated areas to be provided water.)

If for MINING use, state the nature (gold, silver, etc.) of the mines to be served; \_\_\_\_\_

If for IRRIGATION, or other land area use, state the TOTAL number of acres to be developed under each use;

Irrigation	_____
Other (describe)	Cranberry use: <u>162.4</u>
	Agricultural Use: <u>27.7</u>
	Supplemental Cranberry use: <u>18.1</u>

**4. DESCRIPTION OF WATER DELIVERY SYSTEM:** Include dimensions and type of construction of diversion works, length and dimensions of supply ditches or pipelines, size and type of pump and motor. If for irrigation, describe the type of system (i.e., flood, wheel line, hand line, drip, other). water will be pumped to the Windhurst Reservoir then pumped to various reservoirs within the subdistrict. Application will be by sprinkler at place of use.

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

Proposed date construction work will begin      October, 1994

Proposed date construction work will be completed      October, 1998

Proposed date water use will be completed      October, 1999

**NOTE:** A map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the subject property are required under ORS 537.140 and OAR 690 as a part of your application. The legal description may be copied from your deed, title insurance policy, or land sales contract.

6. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):

Applicant  CWRE      Other (Identify in REMARKS section)

b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):

Applicant  CWRE      Other (Identify in REMARKS section)

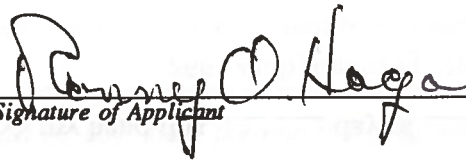
7. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership?  No       Yes. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

**REMARKS:** Enclosed is a right of way from Rogge Forest Products  
to access Bill Creek. Pipeline will cross Coos County Highway  
Department, Coos County Courthouse Annex, Coquille, Oregon  
Lowell and Mary Meyer, P.O. Box 582, Bandon, Oregon 97411

Other lands are within the ownership of subdistrict members.  
This subdistrict is a part of the Bandon Cranberry Water Control District.

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge.

**NOTE:** The permit, when issued, is for the beneficial use of water without waste. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible the land use you propose may not be allowed if it is not in keeping with the goals and acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

  
Signature of Applicant

5-24-94  
Date

Signature of Co-Applicant, if any

Date

**RECEIVED**  
JUN - 1 1994  
WATER RESOURCES DEPT.  
SALEM, OREGON

-----  
**FOR WATER RESOURCES DEPARTMENT USE ONLY**

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

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-----  
In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

\_\_\_\_\_, 19\_\_\_\_.

WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

*[Handwritten signature]*  
-----  
*3-91-dol*

*Water Resources Director*

By: \_\_\_\_\_

This instrument was first received in the office of the Water Resources Director at \_\_\_\_\_, Oregon, on the 1st day of June, 1994, at 8AM o'clock, \_\_\_\_ M.

APPLICATION NO: \_\_\_\_\_

PERMIT NO: \_\_\_\_\_

PROPOSED EASEMENTS

RECEIVED

JUN - 1 1994

WATER RESOURCES DEPT.  
SALEM, OREGON

Rogge Forest Products do hereby grant and convey unto the Windhurst Road Water Control District an easement to construct and maintain a water pipeline and diversion works, an easement for an electrical power line, and a road easement for vehicular and equipment access.

WATER PIPELINE EASEMENT

A ten foot wide permanent easement beginning at the easterly right of way line of Morrison Road, which point being approximately 1350 feet north and 460 feet east of the southwest corner of Section 3, Township 29 South, Range 14 West, W.M., thence in an easterly direction to its intersection with Bills Creek, being within the NE 1/4 SW 1/4 of Section 3.

ELECTRICAL POWER LINE EASEMENT

A twenty foot wide permanent easement beginning at the easterly right of way line of Morrison Road, which point being approximately 1500 feet north and 470 feet east of the southwest corner of Section 3, being within the NW 1/4 SW 1/4 of Section 3, Township 29 South, Range 14 west, W.M., thence easterly to its intersection with Bills Creek, a distance of approximately 2,000 feet, being within the NE 1/4 SW 1/4 of Section 3.

ROAD EASEMENT

A thirty foot wide permanent easement beginning at the easterly right of way line of Morrison Road, which point being approximately 1350 feet north and 460 feet east of the southwest corner of Section 3, Township 29 South, Range 14 West, W.M., thence in an easterly direction to its intersection with Bills Creek, and being within the SE 1/4 SW 1/4, Section 3.

The locations of the easements as described are tentative. The actual locations will be surveyed and described upon completion of the construction of the road, pipeline and power line.

Windhurst Road Water Control Dist.

Rogge Forest Products

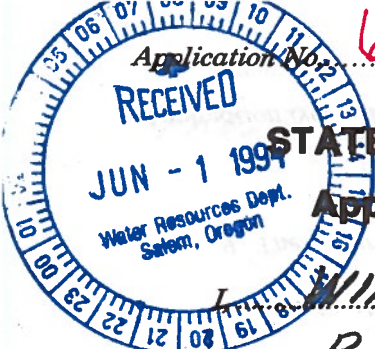
By Conny C. Haga  
By James S. Johnson

By [Signature]  
By Barbara Rogge Fieckner  
Pres.

In full agreement between all parties this easement is in trade for right of way over Haga Lane and Windhurst Road.

F S M  
B L J  
[Signature]





69654

Permit No. **RECEIVED**

JUN 30 1988

STATE OF OREGON WATER RESOURCES DEPARTMENT

Application for Permit to Appropriate Surface Water

WATER RESOURCES DEP  
SALEM, OREGON

**WINDHURST ROAD WATER CORPORATION**  
(Name of Applicant)

**P.O. BOX 503**, **BANDON**  
(Mailing Address) (City)

State of **OREGON**, **97411** Phone No. **503-347-3062** do hereby  
(Zip Code)

make application for a permit to appropriate the following described waters of the State of Oregon:

1. The source of the proposed appropriation is **BILL CREEK**  
a tributary of **BEAR CREEK**

2. The point of diversion is to be located **40** ft. **S** and **2340** ft. **E**  
(N. or S.) (E. or W.)  
from the **W 1/4** corner of **SECTION 3**  
(Public Land Survey Corner)

(If there is more than one point of diversion, each must be described)

being within the **NE** 1/4 of the **SW** 1/4 of  
Sec. **3** Tp. **29S** R. **14W**, W. M., in the county of **COOS**  
(N. or S.) (E. or W.)

3. Location of area to be irrigated, or place of use if other than irrigation.

Township	Range	Section	List 1/4 1/4 of Section	List use and/or number of acres to be irrigated
		<b>SEE ATTACHED SHEET</b>		

4. The amount of water which the applicant intends to apply to beneficial use is 34.79

cubic feet per second. BEING 10.0 CFS FOR FLOOD HARVEST, 21.20 CFS FOR TEMPERATURE CONTROL (15.65 CFS PRIMARY + 5.55 CFS SUPPLEMENTAL) 3.53 CFS FOR CRANBERRY IRRIGATION (1.91 CFS PRIMARY + 1.62 SUPPLEMENTAL) + 0.05 CFS FOR IRRIGATION

5. The use to which the water is to be applied is CRANBERRY IRRIGATION, CRANBERRY TEMPERATURE CONTROL, CRANBERRY FLOOD HARVEST, & IRRIGATION.

6.

**DESCRIPTION OF WORKS**

Include dimensions and type of construction of diversion dam and headgate, length and dimensions of supply ditch or pipeline, size and type of pump and motor, type of irrigation system to adequately describe the proposed distribution system.

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If for domestic use state number of families to be supplied NONE

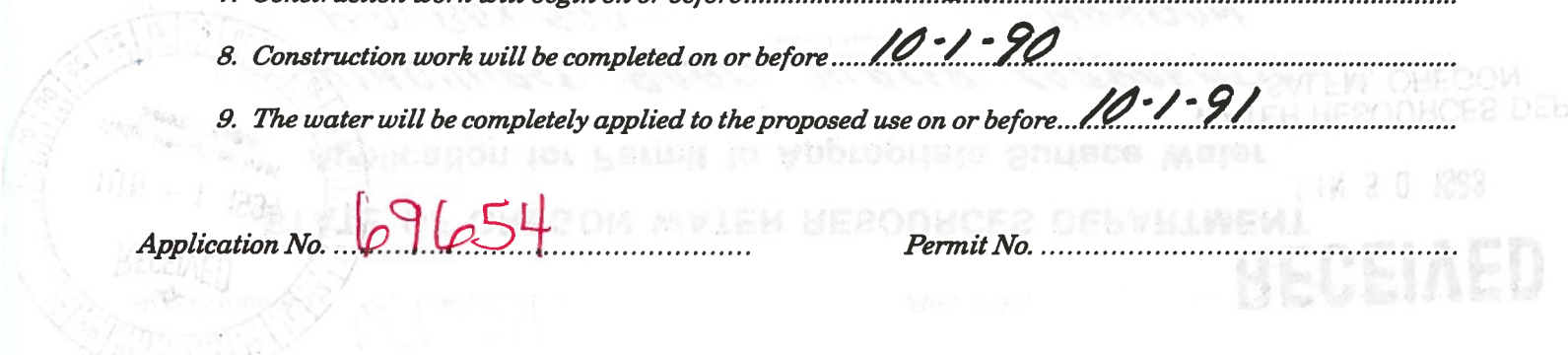
7. Construction work will begin on or before 10-1-89

8. Construction work will be completed on or before 10-1-90

9. The water will be completely applied to the proposed use on or before 10-1-91

Application No. 69654

Permit No. ....



Remarks: TEMPERATURE CONTROL INCLUDES BOTH  
FROST CONTROL & HEAT CONTROL.

This permit, when issued, is for the beneficial use of water. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

Wayne R. Scherer  
Signature of Applicant  
PRESIDENT

*This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for...correction and completion.*

*In order to retain its priority, this application must be returned to the Water Resources Director with corrections on or before ...June 1....., 19.94.....*

WITNESS my hand this .....14th... day of...February....., 19.94.....

...Martha O. Page,..... Water Resources Director

By Michael J. Mattick

MICHAEL J. MATTICK  
Water Rights Specialist

*This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the*

30<sup>th</sup> day of June, 19. 88, at 11:30 o'clock

A.M.

Application No. 69654

Permit No. ....

**Permit to Appropriate the Public Waters of the State of Oregon**

*This is to certify that I have examined the foregoing application and do hereby grant the same SUBJECT TO EXISTING RIGHTS INCLUDING THE EXISTING FLOW POLICIES ESTABLISHED BY THE WATER POLICY REVIEW BOARD and the following limitations and conditions:*

*The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed ..... cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from .....*

*The use to which this water is to be applied is .....*

*If for irrigation, this appropriation shall be limited to ..... of one cubic foot per second or its equivalent for each acre irrigated.....*

*and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.*

*The priority date of this permit is .....  
Actual construction work shall begin on or before ..... and shall  
thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 19.....  
Complete application of the water to the proposed use shall be made on or before October 1, 19.....  
WITNESS my hand this ..... day of....., 19.....*



PFO CHECKLIST

Application #: S 69654 Vol \_\_\_\_\_ Subbasin \_\_\_\_\_

Basin: 17

WAB: \_\_\_\_\_

Ownership \_\_\_\_\_

Range \_\_\_\_\_

Section \_\_\_\_\_

1/4 1/4

- 1. Completeness checklist verified? Y / N
- 2. Indicators that the process should not continue (ie - protest, items missing, letter to file indicating hold, other) Y / N
- NA 3. Groundwater review A B C D
  - a. Is second groundwater review necessary? Y / N reason \_\_\_\_\_
  - b. Is the well located in a groundwater limited area? Y / N
- 4. SWW Y / N Triage Y / N conditions/restrictions Y / N 4A, Totalizing Not allowed May 1 - Nov 30
- 5. Basin Program limitations? Y / N
- 6. Withdrawal? Y / N season allowed \_\_\_\_\_
- 7. Basin Maps have been checked. Y / N The River Mile is \_\_\_\_\_
- 8. Water Availability 50% < July 17, 1992 OR 80% [50% storage] > July 17, 1992 NA
  - a. Notify Ken Stahr Y / N (Q, Duty, or Season) \_\_\_\_\_
- 9. Rate/Duty/Season \_\_\_\_\_
- 10. Use Cranberry Operations Period of Allowed Use \_\_\_\_\_
- 11. Priority Date(s) June 30, 1988 TR / IR mail date \_\_\_\_\_
- 12. B.O.R. project Y / N contract # \_\_\_\_\_
- 13. TMDL Basin? Y / N (Tuckahoe, Yamhill, Padding) Division 33 Y / N (Abv Bonn. > July 17, 92 //// Biv Bonn > April 18, 94 or June 3, 94)
- 14. Conflicts Y / N
- 15. Objections? Y / NA ONFW PFO different from IR/TR Y / N
- 16. Conditions (from IR/TR/ or Additional) Y / N (macro series 4-7)
- 17. Land use approval OK'd needs approval county notified NA
- 18. SIZE Small (<0.1cf, <9.2AF), Medium (>0.1 or <15cf, >9.2 or <100AF) Large (>15 cf, >100 AF)
- 19. Watermaster Dist: (1 2 16 18 - NWR) (3 4 5 - NCR) (6 8 9 10 - ER) (11 12 17 - SCR) (14 15 19 - SWR)

Name: H M

Date: 7-27-92

save to m:\c\p\oldone\work\annex.w

# INITIAL REVIEW CHECKLIST

APPLICATION # S 69654  
BASIN 17  
WAB # 160300  
POU-WAB 160300

1.  ITEMS NOTED AS MISSING BY COMPLETENESS TEAM ARE NOW IN FILE
  2.  N/A GW - A, B, OR C (IF B OR C THEN 3b,d;4;5;6;8 DO NOT APPLY)
  3. DETERMINATION OF WHETHER USE IS OR IS NOT ALLOWED BY...
    - a.  BASIN PLAN
    - b.  LEGISLATIVE WITHDRAWAL (ORS 538)
    - c.  RULES
    - d.  SCENIC WATERWAY (OTHER THAN WA ORS 390.826)
    - e.  OTHER \_\_\_\_\_
  4.  WATER AVAILABILITY (WA) CFS AF 10 MONTHS  
50 % BEFORE JULY 17, 1992; 80 % LIVE FLOW 50 % STORAGE AFTER  
JULY 17, 1992
  5.  INSTREAM WATER RIGHT EXEMPTIONS ARE DOCUMENTED ON WATER  
AVAILABILITY SHEETS
  6.  USE IS NOT FROM A BOR PROJECT OR A SIGNED CONTRACT IS IN  
THE FILE
  7.  GROUND WATER REVIEW HAS BEEN EVALUATED (USE WA DATABASE IF GW A)  
REQUIRED CONDITIONS (GENERIC 7B) \_\_\_\_\_
  8. DIVISION 33 HAS BEEN ADDRESSED...
    - a.  SEASON FOR DIRECT FLOW (ABOVE BONN ONLY) \_\_\_\_\_
    - b.  WATER QUALITY PARAGRAPH
    - c.  EFFICIENCY DESCRIPTION (BELOW BONN AND MORE THAN 1 CFS)
  9.  PLAT CARDS HAVE BEEN CHECKED AND A COPY OF THE MAP IS ATTACHED  
SHOWING THE CONFLICT WITH \_\_\_\_\_  
STORAGE
  10.  IRRIGATION SEASON \_\_\_\_\_ (DECREE, BASIN PLAN, PERMIT,  
GENERIC)
  11.  RATE & DUTY \_\_\_\_\_ (DECREE, BASIN PLAN, PERMIT, GENERIC)  
GROUND WATER ALWAYS GENERIC FOR RATE AND DUTY  
# OF ACRES PRI \_\_\_\_\_ SUPP \_\_\_\_\_ NOT SURE \_\_\_\_\_
  12.  ALL DOCUMENTS USED IN EVALUATION ARE ATTACHED AND HIGHLIGHTED  
AND PACKET IS STAPLED TOGETHER
  13.  ISSUES HINDERING PROCESS \_\_\_\_\_
  14.  WATERMASTER # 19
  15.  REGNL MANGER - SEND COPY (SW, SC, E) DO NOT SEND COPY TO (NW, NC)
  16.  BASIN # AND WAB # ARE ADDED & SPELL ✓ HAS BEEN COMPLETED
  17.  LETTER WAS SAVED FROM M:\T\IR\WORK TO M:\T\IR\SENT
- NAME M. B. DATE 11-28-95



OREGON WATER RESOURCES DEPARTMENT  
ADMINISTRATIVE RULES  
CHAPTER 690  
DIVISION 517  
SOUTH COAST BASIN PROGRAM

**Classifications**

690-517-001

(1) Ground water resources in sections or the portions of Sections 13, 14, 22, 23, 26, 27, 32, 33 and 34 of Township 23 South, Range 13 West; 2, 3, 4, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 27, 28, 29, 31, 32, 33 and 34 of Township 24 South, Range 13 West; and 3, 4, 5 and 6 of Township 25 South, Range 13 West, bounded on the north by Tenmile Creek, on the west by the Pacific Ocean, on the south by Coos Bay and on the east by Highway 101 are hereby classified for single or group domestic, livestock, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and any single industrial or commercial use not exceeding 5,000 gallons per day.

(2) The waters of the following lakes are classified only for domestic, livestock, municipal, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife. The Director of the Water Resources Department may place specific limits on municipal appropriations from the lakes or require outlet control structures to protect recreation, fish life and wildlife uses:

(a) Bradley Lake 4900

✓(b) Eel Lake 01010

✓(c) Garrison Lake 00

(3) All other natural lakes are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife.

(4) Waters of the following streams and all tributaries are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area, fire control and instream use for recreation, fish life and wildlife.

✓(a) Glenn Creek (tributary to the East Fork Millicoma River) 070142

✓(b) Brush Creek 2500

✓(5) The waters of the Middle Fork of the Coquille River and tributaries upstream from the confluence with Holmes Creek are classified only for domestic, livestock and irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife during the period from July 1 to September 30 of every year. Water stored between October 1 and June 30 may be used at any time for purposes specified in section (8). 161123470

✓(6) The waters of the West Fork Millicoma River and tributaries above Stall Falls are classified for municipal, domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife. 0701310 to 07013123

✓ 3400

✓ 1601

(7) The waters of Pony Creek above lower Pony Creek Dam and Ferry and Geiger Creeks above the Ferry Creek - Geiger Creek confluence are classified for municipal use.

(8) All other surface and ground water resources are hereby classified for domestic, livestock, municipal, industrial, fire control, irrigation, agricultural use, mining, power development, recreation, wildlife and fish life uses.

(9) Applications for the use of water for any purposes contrary to classifications specified in the basin program shall not be accepted or granted except as provided by law. The Director shall notify the Board and other interested individuals or agencies of the intent to accept an application for use in conflict with the adopted program in accordance with ORS 536.380 if the proposed use will not have a significant impact on any other water use as provided in sections (1) through (8) of OAR 690-517-001 and in 690-517-002 through 690-517-003.

(10) The planning, construction and operation of any structures or works for the utilization of water in accordance with the aforementioned classifications are to conform with the applicable provisions of ORS 536.310, including but not restricted to the recommendation of the multiple-purpose concept.

X

**Reservations**

690-517-002

Water in the amounts specified is reserved in the following streams for municipal use:

- ✓ (1) Chetco River - three cfs, downstream from the confluence with the North Fork Chetco River
- ✓ (2) Winchuck River - one cfs, downstream from the confluence with Bear Creek

**Minimum Perennial Streamflows**

690-517-003

(1) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses and irrigation of noncommercial gardens not exceeding one-half acre in area shall be allowed for the waters of the streams and tributaries listed in Table 1 when flows are below the specified levels.

(2) The Water Policy Review Board requests the opportunity to review applications for an allowed beneficial use that has traditionally been identified as nonconsumptive or take-and-put, such as fish hatcheries, hydroelectric facilities, municipal or water process industries that could potentially impact, in an adverse way, the Board's minimum flow regime or the public interest. The Water Policy Review Board intends to continue to protect, in its entirety, that portion of the stream system on which any minimum streamflow has been established. Permitting procedures and water use regulation should reflect that objective as far as possible under the law. The Board solicits the advice or complaints of any party who is aware that the objectives are not being met.

(3) Minimum flows established in the Water Resource Program for the South Coast Basin dated May 22, 1964 (Table 3), shall remain in full force and effect except as follows:

- (a) The minimum perennial streamflow for the Elk River above U.S. Highway 101 crossing (45 cfs) is rescinded.

WATER AVAILABILITY TABLE

Basin: South Coast

Water Availability Subbasin: 1603000000000000 (and Nested Subbasins)

Exceedance Level: 80

Time: 14:42

Date: 12/08/1994

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	1600000000000000	YES	YES	YES	YES	YES	YES	YES	NO	NO	NO	YES	YES	YES
2	1603000000000000	YES	YES	YES	YES	YES	YES	YES	NO	NO	NO	NO	YES	YES
		10	10	10	10	9.5	2.5	1.2					10	

LIMITING WATER AVAILABILITY SUBBASINS

Water Availability Subbasin: 1603000000000000

Basin: South Coast

Exceedance Level: 80

Time: 14:42

Date: 12/08/1994

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	1603000000000000	BEAR CR	YES	43.6
2	1603000000000000	BEAR CR	YES	61.2
3	1603000000000000	BEAR CR	YES	44.2
4	1603000000000000	BEAR CR	YES	27.6
5	1603000000000000	BEAR CR	YES	9.5
6	1603000000000000	BEAR CR	YES	2.6
7	1603000000000000	BEAR CR	YES	1.3
8	1600000000000000	COQUILLE R	NO	-54.6
9	1600000000000000	COQUILLE R	NO	-35.6
10	1600000000000000	COQUILLE R	NO	-300.0
11	1603000000000000	BEAR CR	NO	-3.8
12	1603000000000000	BEAR CR	YES	28.3
Stor	1603000000000000	BEAR CR	YES	27300.0

DETAILED REPORT ON WATER AVAILABILITY

Basin: South Coast

Stream: BEAR CR

> COQUILLE R

Water Availability Subbasin: 1603000000000000

Exceedance Level: 80

Time: 14:42

Date: 12/08/1994

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Water Available 1/1/93	CU + Stor After 1/1/93	Net Minimum Flow	Instream Water Rights	Net Water Available
1	54.00	0.10	53.90	0.28	53.60	10.00	43.60
2	71.70	0.20	71.50	0.35	71.20	10.00	61.20
3	54.50	0.10	54.40	0.22	54.20	10.00	44.20
4	37.80	0.10	37.70	0.15	37.60	10.00	27.60
5	19.80	0.20	19.60	0.06	19.50	10.00	9.54
6	9.15	0.55	8.60	0.02	8.58	6.00	2.58
7	4.11	0.82	3.29	0.00	3.29	2.00	1.29
8	1.99	0.68	1.31	0.00	1.31	2.00	-0.69
9	1.51	0.33	1.18	0.00	1.18	2.00	-0.82
10	1.48	0.11	1.37	0.00	1.37	2.00	-0.63
11	6.34	0.10	6.24	0.03	6.21	10.00	-3.79
12	38.60	0.10	38.50	0.23	38.30	10.00	28.30
Stor	32600	203	32400	81	32300	5030	27300



DETAILED REPORT OF ISWRs

Basin: South Coast

Stream: BEAR CR

> COQUILLE R

Water Availability Subbasin: 1603000000000000

Time: 14:42

Date: 12/08/1994

		-----ISWRs-----					RESULTANT
APP # :	70230A	0	0	0	0		
STATUS:	App.						
1	10.0	0.0	0.0	0.0	0.0	10.0 A	
2	10.0	0.0	0.0	0.0	0.0	10.0 A	
3	10.0	0.0	0.0	0.0	0.0	10.0 A	
4	10.0	0.0	0.0	0.0	0.0	10.0 A	
5	10.0	0.0	0.0	0.0	0.0	10.0 A	
6	6.0	0.0	0.0	0.0	0.0	6.0 A	
7	2.0	0.0	0.0	0.0	0.0	2.0 A	
8	2.0	0.0	0.0	0.0	0.0	2.0 A	
9	2.0	0.0	0.0	0.0	0.0	2.0 A	
10	2.0	0.0	0.0	0.0	0.0	2.0 A	
11	10.0	0.0	0.0	0.0	0.0	10.0 A	
12	10.0	0.0	0.0	0.0	0.0	10.0 A	

DETAILED REPORT ON WATER AVAILABILITY

Basin: South Coast

Stream: COQUILLE R

> PACIFIC OCEAN

Water Availability Subbasin: 1600000000000000

Exceedance Level: 80

Time: 14:51

Date: 12/08/1994

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Water Available 1/1/93	CU + Stor After 1/1/93	Net Minimum Flow	Instream Water Rights	Net Water Available
1	2180.00	20.00	2160.00	2.00	2160.00	360.00	1800.00
2	2890.00	20.00	2870.00	2.14	2870.00	340.00	2530.00
3	2630.00	10.00	2620.00	1.93	2620.00	340.00	2280.00
4	1520.00	20.00	1500.00	1.26	1500.00	340.00	1160.00
5	731.00	26.00	705.00	1.65	703.00	340.00	363.00
6	350.00	52.00	298.00	2.77	295.00	200.00	95.20
7	156.00	73.20	82.80	3.65	79.20	71.00	8.15
8	79.80	62.10	17.70	1.30	16.40	71.00	-54.60
9	71.10	34.80	36.30	0.87	35.40	71.00	-35.60
10	95.20	15.50	79.70	0.10	80.00	380.00	-300.00
11	515.00	14.00	501.00	0.99	500.00	380.00	120.00
12	1890.00	20.00	1870.00	1.30	1870.00	360.00	1510.00
Stor	1700000	22000	1680000	1190	1680000	195000	1490000

DETAILED REPORT OF ISWRs

Basin: South Coast

Stream: COQUILLE R

> PACIFIC OCEAN

Water Availability Subbasin: 1600000000000000

Time: 14:42

Date: 12/08/1994

		-----ISWRs-----					RESULTANT
APP # :	384A	0	0	0	0		
STATUS:	Cert.						
1	360.0	0.0	0.0	0.0	0.0	360.0 C	
2	340.0	0.0	0.0	0.0	0.0	340.0 C	
3	340.0	0.0	0.0	0.0	0.0	340.0 C	
4	340.0	0.0	0.0	0.0	0.0	340.0 C	
5	340.0	0.0	0.0	0.0	0.0	340.0 C	
6	200.0	0.0	0.0	0.0	0.0	200.0 C	
7	71.0	0.0	0.0	0.0	0.0	71.0 C	
8	71.0	0.0	0.0	0.0	0.0	71.0 C	
9	71.0	0.0	0.0	0.0	0.0	71.0 C	
10	380.0	0.0	0.0	0.0	0.0	380.0 C	
11	380.0	0.0	0.0	0.0	0.0	380.0 C	
12	360.0	0.0	0.0	0.0	0.0	360.0 C	

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JUN - 1 1994

WATER RESOURCES DEPT.  
SALEM, OREGON

WINDHURST ROAD SUB DISTRICT  
APPLICATION TO APPROPRIATE WATER  
SUPPLEMENTAL SHEET

SOURCE	AMOUNT OF WATER	CRANBERRY USE (CU)	SUPPLEMENTAL CU	AGRICULTURAL USE*	COMMENTS
BILLS CREEK	10.0 CFS	7.8 CFS	0.8 CFS	1.4 CFS	
WINDHURST RESERVOIR	470 ACRE FEET	366 ACRE FEET	38 ACRE FEET	66 ACRE FEET	
BEE STING RESERVOIR	23 ACRE FEET	17 ACRE FEET	2 ACRE FEET	4 ACRE FEET	
SCHERER RESERVOIRS	33 ACRE FEET	23 ACRE FEET		10 ACRE FEET	PROPORTIONATE SHARE FROM EACH RESERVOIR
HAGA RESERVOIRS	23 ACRE FEET	17 ACRE FEET	6 ACRE FEET		PROPORTIONATE SHARE FROM EACH RESERVOIR
MANIKE RESERVOIRS	30 ACRE FEET	27 ACRE FEET	3 ACRE FEET		PROPORTIONATE SHARE FROM EACH RESERVOIR
RICHERT RESERVOIRS	35 ACRE FEET	25 ACRE FEET	10 ACRE FEET		PROPORTIONATE SHARE FROM EACH RESERVOIR

NOTE: \*Agricultural use includes primary cranberry uses and supplemental irrigation (lands have existing irrigation rights).

All lands are within the Bandon Cranberry Water Control District and will be administered through the Windhurst Road Sub District.

Separate reservoir applications are being submitted because of current administrative rules on the amount of reservoirs allowed on any given form.

This application supersedes File No. 69654.

file

Oregon

NOVEMBER 29, 1995

WATER  
RESOURCES  
DEPARTMENT

WINDHURST ROAD WATER CORPORATION  
P.O. BOX 503  
BANDON, OREGON 97411

Reference: File S-69654

Dear Applicant:

**THIS IS NOT A PERMIT AND IS  
SUBJECT TO CHANGE AT NEXT PHASE OF PROCESS**

This letter is to inform you of the potential limitations to your proposed use of water and to describe some of your options. Based on the information you have supplied, the Water Resources Department has reached the following conclusions:

Initial Review Determinations:

1. Your application is complete and not defective.
2. The proposed use is not prohibited by law or rule.
3. The use of water for Irrigation and Agricultural use (Cranberry Operations) is allowed under OAR 517, the South Coast Basin Program.
4. The use of 10.0 CUBIC FEET PER SECOND, being 7.8 cfs for Cranberry use on 162.4 acres and 0.8 cfs for Supplemental Cranberry use on 18.1 acres and 1.4 cfs for Cranberry Operations and Supplemental Irrigation on 27.7 acres, for Cranberry Operations is not available August 1 through November 30 and is limited to 9.5 cfs during the month of May, 2.5 cfs in June, and 1.2 cfs in July.

The use of 614.0 acre-feet of stored water under application R-69708 is allowed year round for Cranberry Operations.



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



Summary of Initial Determinations

The use of 10.0 cfs from Billy Creek for Cranberry Operations from December 1 through April 30 of each year may be allowed. The use will be further limited to 9.5 cfs during the month of May, 2.5 cfs during the month of June, and 1.2 cfs during the month of July.

The use of 614.0 acre-feet of stored water under application R-69708, may be allowed year round.

Because of the Departments determination, your application can be moved to the next phase of the water rights application review process. However, due to #4 above your application will likely be limited as summarized above.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period, will be evaluated at the next phase of the process.

At this time, you must decide whether to proceed or to withdraw your application as described below.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **DECEMBER 13, 1995**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a proposed final order.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. You may be required to measure the amount of water used and report that use annually.
2. You may be required to install fish screens at the diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

S-69654

November 29, 1995

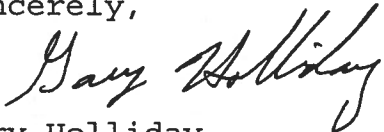
Page 3

3. The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
4. This right is limited to any deficiency in the available supply of any prior right existing for the same land.
5. The priority date for this application is June 30, 1988.

If you have any questions:

Feel free to call me at (503) 378-8455 ext. 454 or 1 (800) 624-3199 if you have any questions. Please have your application number available if you call.

Sincerely,



Gary Holliday  
Initial Reviewer

cc: Regional Manager, Watermaster, Water Availability  
Section  
enclosures: Flow Chart of Water Right Process  
Stop Processing Form

APPLICATION MAP  
IN THE NAME OF  
WINDHURST ROAD SUB DISTRICT

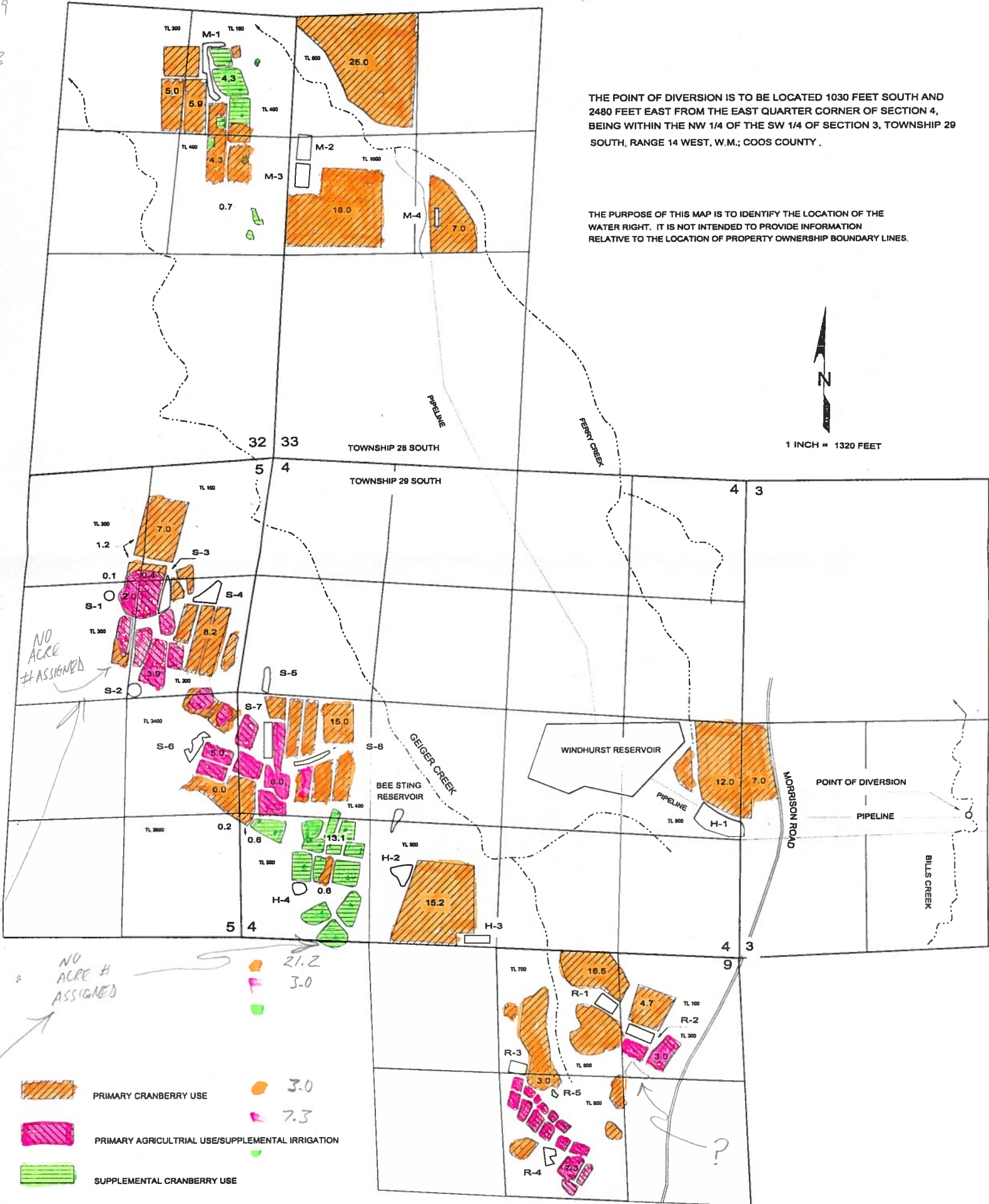
SECTIONS 32 & 33, T 28 S, R 14 W, WM  
AND  
SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM

35.9  
4.3  
29.3  
0.7

THE POINT OF DIVERSION IS TO BE LOCATED 1030 FEET SOUTH AND 2480 FEET EAST FROM THE EAST QUARTER CORNER OF SECTION 4, BEING WITHIN THE NW 1/4 OF THE SW 1/4 OF SECTION 3, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.; COOS COUNTY.

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

8.2  
0.5  
8.2 + 5.9  
40.0  
11.0  
16.6  
13.1



NO ACRE # ASSIGNED

21.2  
3.0  
3.0  
7.3

PRIMARY CRANBERRY USE  
PRIMARY AGRICULTURAL USE/SUPPLEMENTAL IRRIGATION  
SUPPLEMENTAL CRANBERRY USE

162.4 ?  
27.7  
18.1

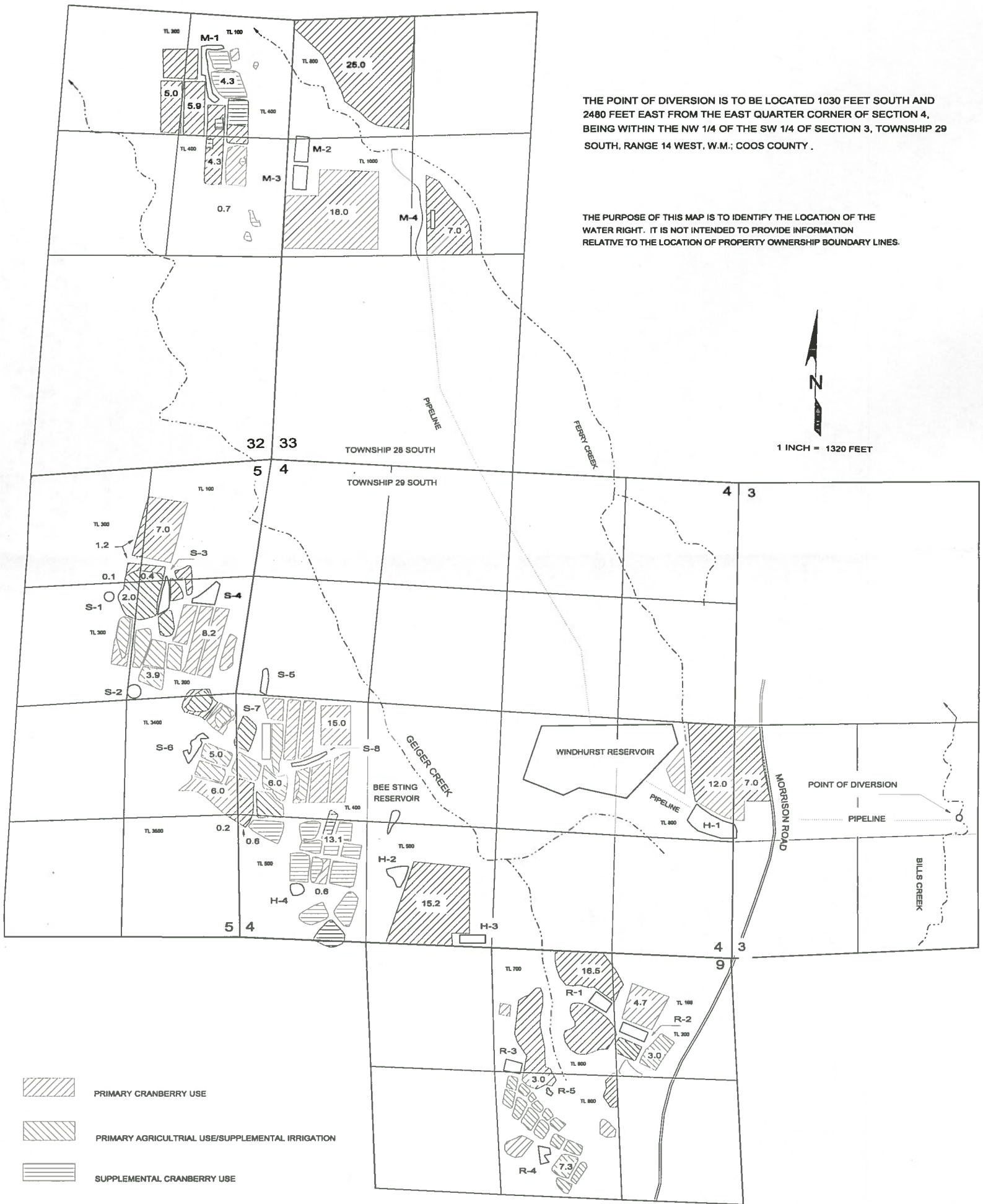
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AUG 22 2000

WATER RESOURCES DEPT.  
SALEM, OREGON

APPLICATION MAP  
IN THE NAME OF  
WINDHURST ROAD SUB DISTRICT

SECTIONS 32 & 33, T 28 S, R 14 W, WM  
AND  
SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM



THE POINT OF DIVERSION IS TO BE LOCATED 1030 FEET SOUTH AND 2480 FEET EAST FROM THE EAST QUARTER CORNER OF SECTION 4, BEING WITHIN THE NW 1/4 OF THE SW 1/4 OF SECTION 3, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.; COOS COUNTY .

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.



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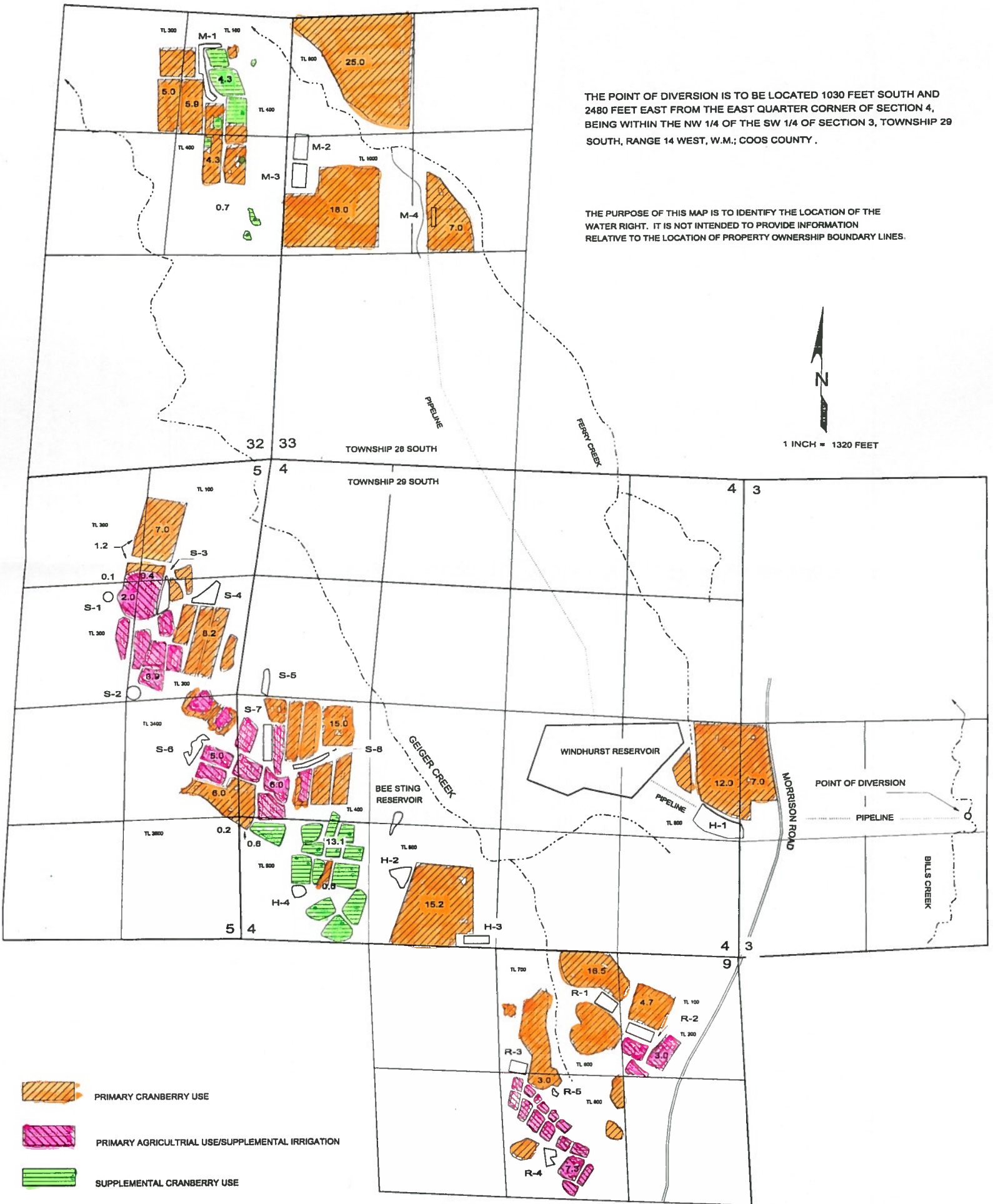
AUG 22 2000

WATER RESOURCES DEPT.  
SALEM, OREGON



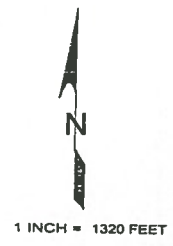
**AMMENDED APPLICATION MAP**  
**IN THE NAME OF**  
**WINDHURST ROAD SUB DISTRICT**

**SECTIONS 32 & 33, T 28 S, R 14 W, WM**  
**AND**  
**SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM**



THE POINT OF DIVERSION IS TO BE LOCATED 1030 FEET SOUTH AND 2480 FEET EAST FROM THE EAST QUARTER CORNER OF SECTION 4, BEING WITHIN THE NW 1/4 OF THE SW 1/4 OF SECTION 3, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.; COOS COUNTY.

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.



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 SEP 18 2000  
 WATER RESOURCES DEPT.  
 SALEM, OREGON

State of Oregon  
Water Resources Department

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FEB 20 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

Agreement and  
Stipulated Final Order

In the matter of Water Right            )  
Application S-69654                        )  
Windhurst Road Water Corporation        )

***Application History***

On June 30, 1988, Windhurst Road Water Corporation submitted an application to the Department for a water use permit. The proposed use requested 34.79 cubic feet per second (cfs) from stored water and live flow for cranberry operations. The proposed source of water was an on-channel reservoir and live flow from Bill Creek, tributary to Bear Creek and within the Coquille River Basin.

In April 1989, pursuant to OAR 690-11-080(2)(a)(C), the request was presented to the Water Resources Commission for a determination of whether a public interest hearing was necessary (Agenda Item G, WRC Meeting April 17, 1989). The Commission voted to hold a public interest hearing due to fisheries concerns raised by the Oregon Department of Fish and Wildlife (ODFW). On August 10, 1989, a contested case hearing was set for October 11, 1989, by Administrative Law Judge (ALJ) Weisha Mize. Parties named to the proceeding are the applicant, ODFW, and the Department. On the unopposed motions of the applicant the hearing has been continued several times to allow for settlement negotiations and application modifications.

On June 1, 1994, the application was amended to request the use of 614 acre-feet of stored water from 23 off-channel reservoirs and 10 cfs of live flow from Bill Creek.

The Department processed the amended application under Senate Bill 674 (1995 Legislative Session) and on August 6, 1996, conditionally approved the use. The Department's Proposed Order does not change contested case party status. On September 18, 1996, the applicant protested the Department's Proposed Final Order and requested that the application be placed on administrative hold while settlement discussions continued.

The applicant, Oregon Department of Fish and Wildlife, and the Department agree that the issue(s) in this case may be settled on the following terms and conditions, and hereby stipulate to the following:

- 1) Parties waive the right to file exceptions to this order and the right to judicial review under ORS 536.075(2) and 183.482.

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3/4/98



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SALEM, OREGON

- 2) Entry of this stipulated final order by the Administrative Law Judge.
- 3) Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon a permit being issued for the reservoirs proposed under application R-69708 (source of 614 acre-feet). Permit issuance is also contingent upon the applicant submitting a revised map, meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use. Minor modification to place of use and type of use, as described on the attached draft permit, may occur as a result of the map revision. Finally, permit issuance shall be contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.
- 4) The permit shall contain the following new or modified conditions as well as the conditions contained on the attached draft permit.
  - A) Season of Use: November 1 through May 31
  - B) Source: Bill Creek and 614 acre-feet stored water in 23 off-channel reservoirs
  - C) Instantaneous Diversion Rate: the maximum diversion rate from Bill Creek authorized under this permit, combined with the diversion authorized under application R-69708 shall not exceed 2.75 cfs and is further limited as described below.

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish

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passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708 shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application R-69708, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application R-69708, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for R-69708 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

- D) Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion on Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

The permittee shall allow the watermaster access to the meter; provided however, where the meter is located within a private structure, the watermaster shall request access upon reasonable notice.

- E) Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- F) At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.
- G) As conditioned, the proposed use will not impair or be detrimental to the public interest.

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**Findings of Fact and Conclusions of Law**

Pursuant to OAR 690-410-070 and OAR 690-400-010(11) water is available for the proposed use November 1 through May 31 of each year. Under the South Coast Basin Program OAR 690-517-001, the use is allowable as requested. The proposed use will not injure other water rights and complies with rules of the Water Resources Commission. Finally, as conditioned above and on the attached draft permit the proposed use will not impair or be detrimental to the public interest.

Therefore, the applicant, the Oregon Department of Fish and Wildlife, and the Department agree that the proposed use may be allowed as conditioned above and on the attached draft permit without detriment or impairment to the public interest.

The applicant, the Oregon Department of Fish and Wildlife, and the Department agree on all other aspects of the attached draft permit and therefore agree to the entry of this Stipulated Final Order. Therefore, the Department finds and the applicant and the Oregon Department of Fish and Wildlife agree that, if exercised in accordance with the attached draft permit, the proposed use will not impair or be detrimental to the public interest.

Ronny O. Hago  
On Behalf of Applicant

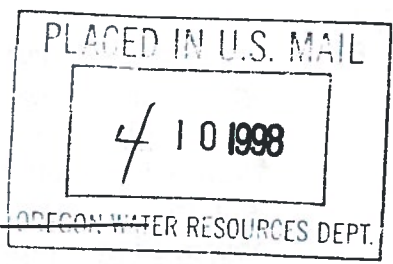
2/16/98  
Date

[Signature]  
On Behalf of the Oregon Department  
of Fish and Wildlife

3/20/98  
Date

[Signature]  
On Behalf of the Oregon Department  
of Water Resources

4/8-98  
Date



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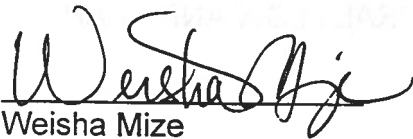
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WATER RESOURCES DEPT.  
SALEM, OREGON

### Stipulated Final Order

Pursuant to the Agreement described above, Application S-69654 therefore is approved with the above modifications to the Proposed Final Order. Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon a permit being issued for the reservoirs proposed under application R-69708 (source of 614 acre-feet). Permit issuance is also contingent upon the applicant submitting a revised map, meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use. Minor modification to place of use and type of use, as described on the attached draft permit, may occur as a result of the map revision. Finally, permit issuance shall be contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.

DATED *March 25*, 1998



Weisha Mize  
Administrative Law Judge

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WATER RESOURCES DEPT.  
SALEM, OREGON

STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION  
P.O. BOX 503  
BANDON, OREGON 97411

(541) 347-3062

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-69654

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK, AND LEGALLY STORED WATER UNDER APPLICATION R-69708

PURPOSE OR USE: CRANBERRY OPERATIONS ON 162.4 ACRES, SUPPLEMENTAL CRANBERRY OPERATIONS ON 18.1 ACRES AND AGRICULTURE USE ON 27.7 ACRES

MAXIMUM RATE/VOLUME ALLOWED: 614.0 ACRE-FEET OF STORED WATER; MAXIMUM INSTANTANEOUS DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED UNDER APPLICATION R-69708, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW.

PERIOD OF USE: NOVEMBER 1 THROUGH MAY 31 FROM NATURAL FLOW AND YEAR ROUND FROM STORED WATER ONLY

DATE OF PRIORITY: JUNE 30, 1988

POINT OF DIVERSION LOCATION: BILL CREEK - NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH & 2480 FEET EAST 1/4 CORNER, SECTION 3, AND STORED WATER FROM 23 RESERVOIRS DESCRIBED IN APPLICATION R-69708.

*FROM THE WEST*



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SALEM, OREGON 2

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing R-69708, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for R-69708, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for R-69708 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	*CRANBERRY	2AGRICULTURE	3SUPPLEMENTAL CRANBERRY
NE 1/4 NE 1/4	5.9 ACRES		4.3 ACRES
NW 1/4 NE 1/4	5.0 ACRES		
SE 1/4 NE 1/4	4.3 ACRES		0.7 ACRE
SECTION 32			
NW 1/4 NW 1/4	25.0 ACRES		
SW 1/4 NW 1/4	18.0 ACRES		
SE 1/4 NW 1/4	7.0 ACRES		
SECTION 33			

TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

	<sup>1</sup> CRANBERRY	<sup>2</sup> AGRICULTURE	<sup>3</sup> SUPPLEMENTAL
NW 1/4 SW 1/4 SECTION 3	7.0 ACRES		
NW 1/4 SW 1/4	15.0 ACRES	6.0 ACRES	
SW 1/4 SW 1/4	1.2 ACRES		13.1 ACRES
SE 1/4 SW 1/4	15.2 ACRES		
NE 1/4 SE 1/4 SECTION 4	12.0 ACRES		
NE 1/4 NE 1/4	7.0 ACRES	0.4 ACRE	
NW 1/4 NE 1/4	1.2 ACRES	0.1 ACRE	
SW 1/4 NE 1/4		2.0 ACRES	
SE 1/4 NE 1/4	8.2 ACRES	3.9 ACRES	
NE 1/4 SE 1/4	6.0 ACRES	5.0 ACRES	
SE 1/4 SE 1/4 SECTION 5	0.2 ACRE		
NE 1/4 NE 1/4	4.7 ACRES	3.0 ACRES	
NW 1/4 NE 1/4	16.5 ACRES		
SW 1/4 NE 1/4 SECTION 9	3.0 ACRES	7.3 ACRES	

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

- <sup>1</sup> - Use of water is for primary irrigation and agriculture use for Cranberry Operations.
- <sup>2</sup> - Use of water is for primary agriculture use and supplemental Irrigation use for Cranberry Operations.
- <sup>3</sup> - Use of water is for supplemental agriculture use and irrigation use for Cranberry Operations.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion from Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more

frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

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

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

#### **STANDARD CONDITIONS**

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2002. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued \_\_\_\_\_, 199\_

**DRAFT - THIS IS NOT A PERMIT**

\_\_\_\_\_  
Water Resources Department  
Director

Application S-69654  
Basin 17

Water Resources Department  
Volume 3 BEAR CREEK AND MISC.  
MGMT.CODE

PERMIT DRAFT  
District 19

Application S-69654

Water Resources Department

PERMIT DRAFT



**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT  
827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (541) 672-5692  
Email: mjoywater@sorcom.com



MEMORANDUM

DATE: September 15, 2000  
TO: Ken Dowden  
FROM: M. John Youngquist  
SUBJECT: Windhurst Road Application

Ken:

Enclosed is an Amended Application Map that, hopefully, will satisfy all the needs. The final proof survey on this one should correct all deficiencies in existing an future right locations.

Please contact me if you have any additional questions.

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SALEM, OREGON





**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT  
827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (541) 672-5692  
Email: mjoywater@sorcom.com



August 8, 2000

Renee Moulun  
Oregon Water Resources Department  
158 12<sup>th</sup> Street, NE  
Salem, Oregon 97301

Re: File No. R-69708 and S-69654 in the name of Windhurst Road Water Corporation

Dear Ms. Moulun:

Enclosed are all the rights of way required to complete the two above noted applications. I believe Adam and I completed all the other outstanding issues previously. We have been waiting for these rights of way to complete the information needed to issue the two permits.

The problem has been the City of Bandon. Mr. Vierck, representing Mrs. Manicke, has been working with the City for over 6 months to obtain the right of way.

If you have any questions, please contact me.

Yours truly,

M. John Youngquist

encl.

cc: Ron Yockim, Attorney at Law  
Windhurst Road Sub District

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### Bee Sting Reservoir Data

Type of Structure:	Homogenous earthen fill w/clay core
Height of Dam:	10 feet
Front Slope:	2:1
Back Slope (water side):	3:1
Conduit:	10" w/ valve
Spillway:	3 foot wide trapezoidal - 2 foot deep
Storage:	15 acre feet (with some excavation)
Monitoring:	Staff gage in reservoir

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WATER RESOURCES DEPT.  
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**AGREEMENT BETWEEN THE CITY OF BANDON AND JUDY MANICKE – RIGHT-  
OF-WAY AND PIPELINE USE EASEMENTS**

1. Judy Manicke wants an easement from the City over property the City owns. The legal description located on what is commonly known as Tax Lot 800 of the City's property is attached as Exhibit "A".
2. The purpose for the easement is to transport water through a pipeline from Windhurst Reservoir to Manicke's property described on Exhibit "B" (Commonly known as Tax Lots 100, 300 and 400).
3. City desires to use Manicke's pipeline to have the ability to transport water through the pipeline for City's exclusive use.

In exchange of the mutual covenants in this agreement, the parties agree:

1. The City of Bandon grants to Judy Manicke a non-exclusive easement over and across the City's property for the purpose of a pipeline along the route as indicated on Exhibit "C". The City further grants to Judy Manicke the right of access to and over the property in connection with the use of the use, repair, installation and maintenance of the pipeline. This right includes the right to bring equipment onto the City's property along a ten-foot strip on either side of the pipeline.
2. Judy Manicke's timing on installation of the pipeline is totally at her discretion and the total cost of the maintenance, installation, repair and use of the pipeline is hers alone. However, if no pipeline is installed five years from the date of this agreement, the easement terminates without any further act of either party.
3. Judy Manicke grants to the City of Bandon at no cost to the City the right to use the pipeline for transportation of water from any source the City uses for water to any location the City decides to transport the water to.
4. In connection with the City's use of the pipeline, the City shall be responsible for the maintenance, repair and replacement of portion or portions of the pipeline that are due to the City's use of the pipeline. Further, the City shall have the City's sole discretion the right to maintain or replace or repair the pipeline in the event that Judy Manicke chooses not to whether or not such need is due to the City's use.
5. Both Manicke and the City have the right to connect to the pipeline other pipes, valves or connections that are necessary for either party's use of the pipeline.
6. All uses by either party shall conform to applicable laws and are subject to the appropriate permits for taking of water that either party desires to use. The

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pipeline will be six-inch diameter, or other size as mutually agreed, for irrigation. The line is to be buried on the City's property a minimum depth of 36 inches and include a tracer wire for future locating. Stakes marking the general location of the pipeline must be placed along the route approximately every 500 feet.

7. Upon request of either party each party shall execute any and all documents necessary to effectuate the purpose of this agreement.
8. The City of Bandon's use of the pipeline is secondary and subject to Judy Manicke's use. Parties will cooperate during joint use of the pipeline to allow each party to draw water as that party needs. However, in the event the parties cannot adjust their schedule during joint use to reasonably accommodate the other party, Judy Manicke's use shall be primary. Both parties agree to use their good faith efforts to manage joint use of the pipeline.
9. This agreement is binding upon the heirs, successors and assigns of each party.

Dated: 7/31/00

City of Bandon  
By: [Signature]  
Matt Winkel, City Manager

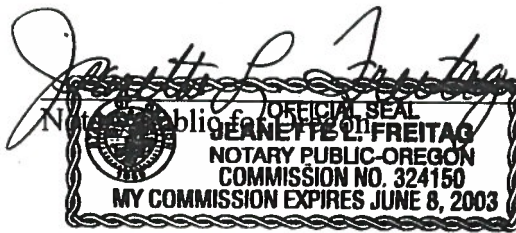
Dated: 7-31-00

[Signature]  
Judy Manicke

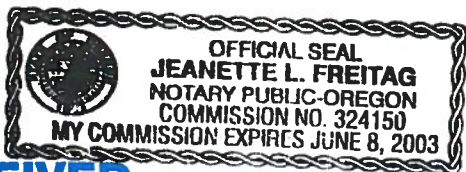
STATE OF OREGON            )  
  )ss  
County of Coos                )

This instrument was acknowledged before me on July 31st, 2000 by Matt Winkel as City Manager of the City of Bandon.

STATE OF OREGON            )  
  )ss  
County of Coos                )



This instrument was acknowledged before me on July 31, 2000 by Judy Manicke.



[Signature]  
Notary Public for Oregon

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SALEM, OREGON

**EXHIBIT "A"**  
**DESCRIPTION OF CITY PROPERTY**

The South half of the Southwest quarter of Section 33, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon, Save and Except therefrom the North 380 feet; and the Northwest quarter, and the Southwest quarter of the Northeast quarter, of Section 4, Township 29 South, Range 14 West of the Willamette Meridian, Coos County, Oregon.

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WATER RESOURCES DEPT.  
SALEM, OREGON



74 1- 95688

## WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That GRACE TURNER, hereinafter known as the Grantor, does hereby sell, grant, and convey unto STEVEN R. MILLER and RUTH A. MILLER, hereinafter known as the Grantees, their heirs and assigns, all the following real property, with the tenements, hereditaments, and appurtenances, situated in the County of Coos, State of Oregon, bounded and described as follows, to-wit:

Beginning 450 feet North of the Southeast corner of the Northeast quarter (NE 1/4) of the Northeast quarter (NE 1/4) of Section Thirty-two (32), Township Twenty-eight (28) South, Range Fourteen (14) West of the Willamette Meridian, Coos County, Oregon, and running thence West to the West line of said Northeast quarter (NE 1/4) of the Northeast quarter (NE 1/4); thence North to the Northwest corner of said Northeast quarter (NE 1/4) of the Northeast quarter (NE 1/4); thence East to the Northeast corner thereof; thence South to the point of beginning, excepting therefrom the West 525 feet of the North 375 feet thereof.

TO HAVE AND TO HOLD the above described and granted premises unto the said Grantees, their heirs and assigns, forever, as tenants by the entirety with the right of survivorship between them.

The Grantor above named does covenant to and with the above named Grantees, their heirs and assigns, that she is lawfully seised in fee simple of the above granted premises; that the above granted premises are free from all encumbrances, except:

(1) 1970-71 Taxes, \$498.87, SN 10293-1-1, Code 54.03;

(2) Interest of Sunset Oil Syndicate, if any, in an Oil Lease executed by T. W. Panter and wife, recorded in Deed Book 151, Page 584, Records of Coos County, Oregon, to E 1/2 NE 1/4;

(3) Right of way, including the terms and provisions thereof, granted to Pacific Power and Light Company by J. A. Gibson, et ux, recorded May 31, 1956, in Deed Book 250, Page 599, Records of Coos County, Oregon;

(4) Easement created by instrument, including the terms and provisions thereof, dated April 24, 1967, recorded April 27, 1967, as No. 67-4-17617, Records of Coos County, Oregon, in favor of Grace Turner, et al, for pipeline easement;

(5) Easement created by instrument, including the terms and provisions thereof, dated September 5, 1967,

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JUN 13 2000

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LEM, OREGON

Warranty Deed-1.

McNUTT, GANT & ORMSBEE  
ATTORNEYS AT LAW  
BYU NORTH BLDG  
COOS BAY, OREGON

EXHIBIT B PAGE 1

74 1- 95689

recorded September 21, 1967, as No. 67-9-21981,  
Records of Coos County, Oregon, in favor of Jerry  
Allinger, for pipeline easement;

and that she will, and her heirs and personal representatives  
shall, warrant and forever defend the above granted premises and  
every part and parcel thereof, against the lawful claims and  
demands of all persons whomsoever.

This deed is given in consideration of the sum of  
\$38,000.00.

WITNESS my hand and seal this 23 day of October,  
1970.

[Signature] (SEAL)

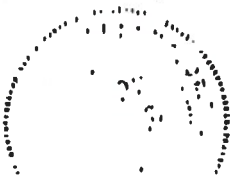
STATE OF OREGON, )  
County of Coos. ) ss.

October 23, 1970.

Personally appeared Grace Turner and acknowledged that  
she executed the foregoing instrument freely and voluntarily.

Before me:

[Signature]  
Notary Public for Oregon  
My commission expires: 5-27-74



414 ✓ 74 1- 95688 - 9  
State of Oregon  
County of Coos  
I hereby certify that this instrument  
was filed for record on 10/11/74

JAN 28 8 50 AM '74

and recorded in Book of Records -

Microfilm Reel No. 74-95688-9  
of said County.

WITNESS my hand and Seal of County  
affixed.

Fay E. Ambrose, Coos County Clerk

By [Signature] Deputy

Return to [Signature]

Fee 9.00

RECORDED BY

RECEIVED IN TI

Coos County Branch

AUG 10 2000

RESOURCES DEPT.  
ALEM, OREGON  
Mortgage Deed-2.



RETURN TO ANY TITLE & ESCROW 95 03 0666

After recording return to grantee herein. Until a change is requested send all tax statements to grantee herein.

KEY TITLE NO. 24-42449  
ESCROW NO. 28-1434  
TAX ACCT. NO. 10291.10  
MAY 928 14 12 TL300

GRANTEE'S NAME AND ADDRESS:

BRUCE L. MANICKS  
P.O. BOX 581  
BANGOR, OR 97411

WARRANTY DEED -- STATUTORY FORM  
(INDIVIDUAL OR CORPORATION)

HARVEY T. GOODSPEED AND LORAYNE R. GOODSPEED, TRUSTEES OF THE HARVEY T. AND LORAYNE R. GOODSPEED TRUST Grantor,

conveys and warrants to:

BRUCE L. MANICKS and JUDY R. MANICKS, husband and wife, Grantee,

the following described real property free of encumbrances except as specifically set forth herein:

Beginning at the Northwest corner of the Northeast 1/4 of the Northeast 1/4 of Section 32, Township 38 South, Range 14 West of the Willamette Meridian, Coos County, Oregon; thence South 375 feet; thence East 525 feet; thence North 375 feet; thence West 525 feet to the point of beginning.

SUBJECT TO: 1. An easement created by instrument recorded June 27, 1956, in Book 251, Page 341, Records of Coos County, Oregon in favor of Pacific Power and Light for Electric Transmission line.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING THE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this conveyance is \$16,000.00. However, if the actual consideration consists of or includes other property or other value given or promised, such other property or value was part of the/the whole of the (indicate which) consideration.

If grantor is a corporation, this has been signed by authority of the Board of Directors.

Dated this 15<sup>th</sup> day of March, 1995.

GRANTOR(S):

Harvey T. Goodspeed  
HARVEY T. GOODSPEED

Lorayne R. Goodspeed  
LORAYNE R. GOODSPEED

STATE OF Oregon, County of Coos ) ss.

This instrument was acknowledged before me on Mar. 15, 1995, by HARVEY T. GOODSPEED and LORAYNE R. GOODSPEED

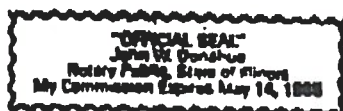
John W. Donahue  
Notary Public for Oregon  
12

My commission expires: 5-14-95

RECEIVED

AUG 10 2000

RESOURCES DEPT.  
SEASIDE, OREGON



RECORDING# 95030666  
I, Mary Ann Wilson,  
Coos County Clerk, certify  
the within instrument  
was filed for record at



2:50 PM 03/17/1995  
J. WILSON

By \_\_\_\_\_ Deputy

74 1- 95690

## WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that we, STEVEN R. MILLER and RUTH A. MILLER, Grantors, in consideration of an exchange of property, do hereby grant, bargain, sell and convey unto BRUCE L. MANICKE and JUDITH R. MANICKE, as tenants by the entirety, all the following described real property, to-wit:

Beginning 450 feet North of the SE corner of the NE 1/4 of the NE 1/4 of Section 32, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon; thence West to the West line of said NE 1/4 of the NE 1/4; thence North to the NW corner of the said NE 1/4 of the NE 1/4; thence East to the NE corner thereof; thence South to the place of beginning, except a parcel conveyed to Harvey T. Goodspeed et ux in Book 185, page 17, Deed Records of Coos County, Oregon, described as follows: Beginning at the NW corner of the said NE 1/4 of the NE 1/4; thence South 375 feet; thence East 525 feet; thence North 375 feet; thence West 525 feet to the place of beginning.

We, the Grantors, covenant to and with the Grantees that we are lawfully seized in fee simple of the above granted premises, free from all encumbrances except 1972-73 and 1973-74 real property taxes; and except rights of the Public in streets, roads and highways; and except Right of Way to Pacific Power and Light Company as recorded in Deed Book 250, page 599, Records of Coos County, Oregon; and except an easement bearing Microfilm Reel No. 17617, Records of Coos County, Oregon; and except an easement bearing Microfilm Reel No. 21981, Records of Coos County, Oregon; and except contract of sale and financing statement both between Steven R. Miller and Ruth A. Miller to Grace Turner, respectively recorded April 11, 1972 as No. 70372 and filed October 23, 1970 as No. 11-297, Records of Coos County, Oregon, both of which contract and financing statement Grantees assume and agree to satisfy; that we shall and our heirs, executors and administrators shall warrant and forever defend the same against the lawful claims and demands of all persons whomsoever.

**RECEIVED**

AUG 10 2000

WATER RESOURCES DEPT.



74 1- 95691

Witness our hands this 1<sup>st</sup> day of ~~November~~ <sup>December</sup>, 1973.



Steven R. Miller  
Ruth A. Miller

STATE OF OREGON )  
County of Coos ) ss

On the 1<sup>st</sup> day of <sup>December</sup> ~~November~~, 1973, there appeared before me the  
aforenamed Steven R. Miller and Ruth A. Miller, both of whom  
personally acknowledged to me that they executed the foregoing  
instrument freely and voluntarily for the uses and purposes  
therein set forth.

WITNESS my hand and official seal the day and year last above  
written.

[Signature]  
Notary Public for Oregon

My Commission expires:

8/8/76

941 ✓ 74 1- 95690 - 1  
State of Oregon  
County of Coos  
I hereby certify that the within instrument  
was filed for record

JAN 20 8 50 AM '74

and recorded in Book of Records . . .  
Microfilm Reel No. . . .  
74-1-95690-1  
of said County.  
WITNESS my hand and Seal of County  
affixed.  
Fay F. Crabtree, Coos County Clerk  
By [Signature] Deputy

Return to [Signature]

Fee 4.00

Bruce L. Manicke  
P.O. Box 584  
Bandon Oregon  
97407

RECEIVED

RECORDED BY



AUG 1 0 2000

Coos County Branch

Warranty Deed

WATER RESOURCES DEPT.  
SALEM, OREGON

54-03<sub>F</sub>

54-0

1900M1

200

54-03

WINDHURST RESERVOIR

6" PVC LINE

NEW ACCESS

RECEIVED

AUG 10 2000

WATER RESOURCES DEPT. SALEM, OREGON

Exhibit

SEE MAP 28 14 32

SEE MAP 28 14 34

SEE MAP 28 14 5

SEE MAP 28 14 3

MORTY JO W

1000  
1000M1  
79.89 AC.

1001  
80.00 AC.

1100  
1100M1  
1100M2  
1100M3  
92.73 AC.

1200  
1200M1  
1200M2  
31.92 AC.

1300  
80.00 AC.

1400  
40.00 AC.

1501  
1500M4  
14.38 AC.

1502  
36.11 AC.

1900M1

1402  
10.00 AC.

SEE CS 32A64

1403  
10.00 AC.

1401  
20.00 AC.

CS 32B47

300  
28.71 AC.

200  
20.00 AC.

100  
29.27 AC.

LOT 4 30.71

LOT 3 20.00

LOT 2 39.45

LOT 1 39.82

915M1 INCL 1A  
900M1  
1000M1

400  
80.00 AC.

700  
77.50 AC.

800  
40.00 AC.  
80.00 M1

500  
500M1

800  
80.00 AC.



March 28, 2000

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

Dear Sirs:

We, Ronny Haga and Gloria Haga, hereby <sup>Vierck</sup> authorize Wayne Scherer, Guy Scherer, Fred Richert, and Scott ~~Veteriek~~ to install pipelines and other ditches, canals, or other works necessary to transport water across our land to their respective properties.

Sincerely,

Ronny Haga

Gloria Haga

STATE OF OREGON )

County of Coos )

ss. 4-7-2000  
Date

Personally appeared the above named Ronny Haga and acknowledged the foregoing instrument to be his voluntary act and deed.



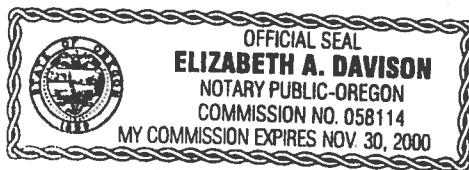
Notary Public for Oregon  
My Commission Expires: 11-30-2000

STATE OF OREGON)

County of Coos )

ss. 4-7-2000  
Date

Personally appeared the above named Gloria Haga and acknowledged the foregoing instrument to be her voluntary act and deed.



Notary Public for Oregon  
My Commission Expires: 11-30-2000

**RECEIVED**

AUG 10 2000

WATER RESOURCES DEPT.  
SALEM, OREGON

AFFIDAVIT

STATE OF OREGON )  
 ) ss.  
County of Coos )

I, IVAN HULTIN AND TRACY HULTIN, being first duly sworn, depose and say that we have no objection to Judith Manicke installing a pipeline across our ownership to convey water from the Windhurst Road Reservoir to their cranberry fields located in Sections 32 & 33, Township 32 South, Range 14 West, W.M..

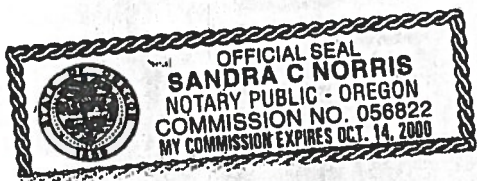
IN WITNESS WHEREOF, I have hereunto set my hand this 10 day of April 2000

[Signature]  
[Signature]

Subscribed and sworn to before me this 10 day of April 2000

[Signature]  
Notary Public for Oregon

My commission expires 10/14/00



**RECEIVED**  
AUG 10 2000  
WATER RESOURCES DEPT.  
SALEM, OREGON

LICENSE TO USE LAND

This is an agreement between Lowell E. Meyer and Judith Manicke.

Lowell E. Meyer agrees to allow Judith Manicke to install a six-inch PVC pipeline across his property, for the purpose of conveying approximately 120 acre-feet / year of water from the Windhurst Road Reservoir to her cranberry fields located in Township 32S, Range 14W, Sections 32 and 33, under the provisions of the Windhurst Water District, provided:

- 1. Lowell E. Meyer may specify the exact initial placement of the pipeline on his property;
2. Judith Manicke agrees to move the pipeline to a different location on Lowell Meyer's property, at Judith Manicke's sole expense, if Lowell Meyer or his successor in interest determines not unreasonable that the different location would allow him to better use and enjoy his property; and
3. Judith Manicke agrees that the scope of this license is limited to the conveyance technology and water throughput rate described above, and that Lowell E. Meyer or his successors in interest is not obligated to agree to any expansion of the scope of this license in the future.

So agreed:

Signature of Lowell E. Meyer
Lowell E. Meyer

4-11-00
Date Signed

Notary Public section containing: State of OREGON, County of Coos, acknowledgment text, signature of Brenda D. Hanna, commission expiration date (1-24-04), and official notary seal for Brenda D. Hanna, Commission No. 329094, expires Jan. 24, 2004.

So agreed:

Judith Manicke

Date Signed

RECEIVED

AUG 10 2000

WATER RESOURCES DEPT.
SAI FM. OREGON



**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT  
827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (541) 672-5692  
Email: mjywater@sorcom.com



MEMORANDUM

DATE: August 24, 2000  
TO: Renee Moulun  
FROM: M. John Youngquist *John*  
SUBJECT: Windhurst Road Material

Renee:

Enclosed is the letter I sent to Adam on March 20, 2000, and another copy of the application map. In addition to the signed right of way permission documents I provided, I believe this should complete the material.

Also enclosed is a check for \$350 for the permit issuance fee.

*Thanks*

Please contact me if you need additional information.

**RECEIVED**

AUG 22 2000

WATER RESOURCES DEPT.  
SALEM, OREGON



**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT  
827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (541) 672-5692  
Email: mjywater@sorcom.com



March 20, 2000

Adam Sussman  
Oregon Water Resources Department  
158 12<sup>th</sup> Street, NE  
Salem, Oregon 97301

Re: S-69654 and R-69708

Dear Mr. Sussman:

In response to your letter of March 16, 2000, the following information is offered to resolve both above noted files:

R-69708

1. The applicants have decided to construct the Bee Sting Reservoir under 10 feet in height, therefore, engineered plans and specifications will not be required.

Pertinent data for the Bee Sting Reservoir is attached as a supplemental sheet. It is felt that 15 acre feet of water may be obtained without and engineered structure.

2. All lands needed to construct the reservoir are owned by Ronny and Gloria Haga. Their permission to use their lands for the reservoir is enclosed. Also enclosed is a right of way from Rogge Forest Products for the work to be done in Bills Creek and the pipeline to Morrison Road and the Coos County Road Department permission to install a pipeline across Morrison Road to the Haga's property.

S-69708

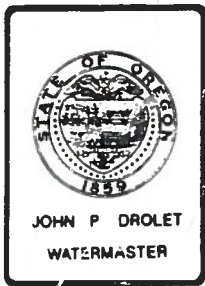
1. Attached is a list of affected landowners and their permission to allow installation of a pipeline across their lands.
2. I believe the map is self-explanatory. Enclosed is a statement from the Watermaster indicating the map is satisfactory for his use. I did not plot the tax lot lines, however, I did add the tax lot numbers in each forty acre tract that contained cranberries.

**RECEIVED**

AUG 22 2000

WATER RESOURCES DEPT.  
SALEM, OREGON





## Water Resources Department

COOS COUNTY ANNEX, 290 NORTH CENTRAL ST., COQUILLE, OREGON 97423 PHONE 396-3121  
EXT. 254

**RECEIVED**

MAR 13 2000

WATER RESOURCES DEPT.  
SALEM, OREGON

17 April 2000

M. John Youngquist  
827 S.E. Mosher  
Roseburg, OR 97470

file # S-69654  
R-69708

**RECEIVED**

APR 20 2000

WATER RESOURCES DEPT.  
SALEM, OREGON

Dear Mr. Youngquist:

Reference is made to your 17 April dated letter and accompanying map regarding a proposal to utilize the Geiger Creek stream channel as a conveyance for a specific quantity **Windhurst Road Water District** water. Water proposed to be released would be used on the Manicke property.

Conceptually, the utilization of a stream channel to convey stored water is possible and a formal mechanism is provided in statute (ORS 540.410, attached). Certain conditions are set forth in that statute. Your letter contains additional proposed conditions. Our morning's discussion highlighted other issues that would necessarily need to be addressed in order for the proposal to be workable. A list of additional considerations might include but not be limited to:

1. Travel time from discharge into the system to POD.
2. Natural inflow.
3. Pumping regimes of intervening appropriators.
4. Totalizing meter maintenance and operation.

I would anticipate that a formal agreement would be entered into that would establish duties, responsibilities, and expectations of the parties involved. The water user should take into account the required reimbursable compensatory expenses incurred by the watermaster, as per statute.

If the parties agree to conditions, a trial run might be attempted during anticipated steady state streamflow conditions during the summer.

**RECEIVED**

APR 20 2000

WATER RESOURCES DEPT.  
SALEM, OREGON

~~RECEIVED~~

~~MAR 13 2000~~

~~WATER RESOURCES DEPT.  
SALEM, OREGON~~

(2)

Arguing in favor of your proposal is a system of 3 gauging stations on Geiger Creek; one at the point of proposed discharge from Windhurst Reservoir into Geiger Creek, another at an existing point of diversion on Ferry Creek, with the third station just upstream from ODF&W's and the City of Bandon's intake above the hatchery.

If Windhurst determines that it is worthwhile to pursue using Geiger Creek as a conveyance, please get in touch.

Sincerely,



John P. Drolet  
Watermaster, District 19

JPD/dt

CF: Wayne Scherer  
BSA  
BRS

Dwight French (for files)



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97301-4172  
(503) 378-3739  
FAX (503) 378-8130

March 16, 2000

Ron Haga  
Windhurst Road Water Corporation  
P.O. Box 503  
Bandon, Oregon 97411

RE: Windhurst (R-69708 and S-69654)

Dear Mr. Haga:

Back in November of 1997, the Department issued final orders approving the above referenced applications. For each application the issuance of a permit was contingent upon additional material being submitted to the Department. To date the required material has not been received. Under ORS 537.130(3) "no person shall use, store or divert any waters until *after* the Department issues a permit to appropriate the waters.

According to the Stipulate Final Orders the following items are still needed:

### R-69708

- According to the final order the applicant shall provide final plans and specifications for the Windhurst and Bee Sting Reservoirs. Plans have been approved for Windhurst but none have been submitted for Bee Sting. When a permit is issued additional dam safety conditions will be added. Should Bee Sting be removed from the proposed permit or is the applicant going to submit plans?
- Names and addresses of property owners affected by the proposed use and written authorization, easement or proof of ownership of non-owned lands inundated by the proposed reservoir or crossed by a proposed ditch, canal or other works.

### S-69654

The issuance of a permit for S-69654 is contingent upon a permit being issued for R-69708. In addition permit issuance is contingent upon:

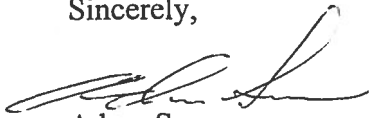
- Submittal of a revised map meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use.



- Names and addresses of property owners affected by the proposed use and written authorization, easement or proof of ownership of non-owned lands crossed by a proposed ditch, canal or other works.

Please make every effort to get these materials to the Department promptly. If you should have any questions please contact me at 1-800-624-3199 ext. 262.

Sincerely,



Adam Sussman  
Protest Program Coordinator

cc: John Youngquist  
827 SE Mosher Ave.  
Roseburg, Oregon 97470

John Drolet, Watermaster District 19

# Mailing List for Protested Application Copies

Application APPNUM 5-69654

FO Date FODATE

Original mailed to:

Applicant:

Copies sent to:

1. WRD - File # APPNUM
2. WRD - Water Availability: Ken Stahr

PFO, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 19
4. WRD - Regional Manager (not Bob Main): al Cook
5. ODFW District Biologist:

Copies Mailed	
By: <u>CK</u>	(SUPPORT STAFF)
on: <u>8/10/98</u>	(DATE)

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

Send 5FO to:

6. \_\_\_\_\_
7. John Youngquist  
827 SE Masher Ave  
Roseburg OR 97470
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_
13. \_\_\_\_\_

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

CASEWORKER: A.S.

m: | groups | wr | protests | stip | 97-07 | 569654





Oregon **RECEIVED**

John A. Kitzhaber, M.D., Governor

MAR 24 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

Water Resources Department

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

February 26, 1998

**URGENT**

Jill Zarnowitz  
Oregon Department of Fish and Wildlife  
2501 SW First Ave, PO Box 59  
Portland, Oregon 97207

RE: Settlement of Protest on Windhurst Road Water Corporation Application S-69654:  
Stipulated Final Order and Agreement

Dear Jill:

Some time ago you signed the agreement settling the protest on Windhurst's reservoir application (R-69708). Enclosed is the stipulated final order and agreement settling the other half of the proposed use - S-69654. This application allows them to use the stored water and some live flow.

This document is the result of a long awaited agreement between the Department, ODFW, and the applicant. Reese Bender from the ODFW Charleston office has been very involved with the settlement and has reviewed the enclosed agreement. (See attached letter from Reese). The settlement is laid out in pages 1-4 of the document so I will not try to summarize it here.

ODFW has official party status to this case and therefor I am requesting that you sign and date page (4) of the agreement. The applicant has already signed. This type of document is the typical document we use to settle cases in the jurisdiction of the Hearings Officer.

Please sign and return the agreement to my attention as soon as possible.

If you have any question please call me at 1-800-624-3199 ex. 262.

Sincerely,

Adam Sussman  
Protest Program Coordinator

enclosure

cc: John Youngquist  
827 SE Mosher Ave.  
Roseburg, Oregon 97470

Reese Bender, ODFW  
Weisha Mize, OWRD

**RECEIVED**  
R 34/98 D

RECEIVED

OCT 24 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

Oregon



DEPARTMENT OF  
FISH AND  
WILDLIFE

CHARLESTON  
DISTRICT OFFICE

October 23, 1997

Adam Sussman  
Oregon Water Resources Department  
158 12th Street NE  
Salem, OR 97310-0210

RE: Draft Agreement and Stipulated Final Order for S-69654 and R-69708  
Windhurst Road Water Corporation

Dear Adam:

We have reviewed your revised DRAFT agreement for S-69654 and R-69708 (letter dated 10/16/97), and we now support all terms of the Agreement.

Thanks for your help in resolving this Water Right.

Sincerely,

A handwritten signature in cursive script that reads "Reese E. Bender".

Reese Bender  
Assistant District Fisheries Biologist

RECEIVED  
RS4/98



4475 Boat Basin Drive  
PO Box 5430  
Charleston, OR 97420  
(541) 888-5515  
FAX (541) 888-6860



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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

February 26, 1998

### URGENT

Jill Zarnowitz  
Oregon Department of Fish and Wildlife  
2501 SW First Ave, PO Box 59  
Portland, Oregon 97207

RE: Settlement of Protest on Windhurst Road Water Corporation Application S-69654:  
Stipulated Final Order and Agreement

Dear Jill:

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ODFW has official party status to this case and therefor I am requesting that you sign and date page (4) of the agreement. The applicant has already signed. This type of document is the typical document we use to settle cases in the jurisdiction of the Hearings Officer.

Please sign and return the agreement to my attention as soon as possible.

If you have any question please call me at 1-800-624-3199 ex. 262.

Sincerely,

Adam Sussman  
Protest Program Coordinator

enclosure

cc: John Youngquist  
827 SE Mosher Ave.  
Roseburg, Oregon 97470

Reese Bender, ODFW  
Weisha Mize, OWRD



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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

February 9, 1998

Wayne Scherer  
Ronny O. Haga  
Windhurst Road Water Corporation  
P.O. Box 503  
Bandon, Oregon 97411

RE: Stipulated Final Order and Agreement - Application S-69654

Gentleman:

Enclosed is an Agreement and Stipulated Final Order for Application S-69654. Several months ago I sent a draft of this agreement to you, John Youngquist and, Jill Zarnowitz from Oregon Department of Fish and Wildlife. Everyone thought it looked good. I was holding this in the hopes of getting the adjusted map. I now realize that the map adjustments will be minor and there is no reason to hold this any longer. The only changes I have made since the draft were to describe that minor adjustments may occur to place of use and type of use once the revised map is received (item 3), and to delete references to permit numbers since I do not know what they will be.

Please review the document carefully and sign and date page 4. Return the entire document to my attention. After you sign and return I will send it off to Jill for her signature.

Please feel free to contact me at 1-800-624-3199 ex. 262. If you have any questions.

Sincerely,

Adam Sussman  
Protest Program Coordinator

cc: John Youngquist  
827 SE Mosher Ave.  
Roseburg, Oregon 97470

Watermaster District 19

Reese Bender, ODFW

State of Oregon  
Water Resources Department

In the matter of Water Right	)	<b>Agreement and Stipulated Final Order</b>
Application S-69654	)	
Windhurst Road Water Corporation	)	

***Application History***

On June 30, 1988, Windhurst Road Water Corporation submitted an application to the Department for a water use permit. The proposed use requested 34.79 cubic feet per second (cfs) from stored water and live flow for cranberry operations. The proposed source of water was an on-channel reservoir and live flow from Bill Creek, tributary to Bear Creek and within the Coquille River Basin.

In April 1989, pursuant to OAR 690-11-080(2)(a)(C), the request was presented to the Water Resources Commission for a determination of whether a public interest hearing was necessary (Agenda Item G, WRC Meeting April 17, 1989). The Commission voted to hold a public interest hearing due to fisheries concerns raised by the Oregon Department of Fish and Wildlife (ODFW). On August 10, 1989, a contested case hearing was set for October 11, 1989, by Administrative Law Judge (ALJ) Weisha Mize. Parties named to the proceeding are the applicant, ODFW, and the Department. On the unopposed motions of the applicant the hearing has been continued several times to allow for settlement negotiations and application modifications.

On June 1, 1994, the application was amended to request the use of 614 acre-feet of stored water from 23 off-channel reservoirs and 10 cfs of live flow from Bill Creek.

The Department processed the amended application under Senate Bill 674 (1995 Legislative Session) and on August 6, 1996, conditionally approved the use. The Department's Proposed Order does not change contested case party status. On September 18, 1996, the applicant protested the Department's Proposed Final Order and requested that the application be placed on administrative hold while settlement discussions continued.

The applicant, Oregon Department of Fish and Wildlife, and the Department agree that the issue(s) in this case may be settled on the following terms and conditions, and hereby stipulate to the following:

- 1) Parties waive the right to file exceptions to this order and the right to judicial review under ORS 536.075(2) and 183.482.



- 2) Entry of this stipulated final order by the Administrative Law Judge.
- 3) Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon a permit being issued for the reservoirs proposed under application R-69708 (source of 614 acre-feet). Permit issuance is also contingent upon the applicant submitting a revised map, meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use. Minor modification to place of use and type of use, as described on the attached draft permit, may occur as a result of the map revision. Finally, permit issuance shall be contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.
- 4) The permit shall contain the following new or modified conditions as well as the conditions contained on the attached draft permit.
  - A) Season of Use: November 1 through May 31
  - B) Source: Bill Creek and 614 acre-feet stored water in 23 off-channel reservoirs
  - C) Instantaneous Diversion Rate: the maximum diversion rate from Bill Creek authorized under this permit, combined with the diversion authorized under application R-69708 shall not exceed 2.75 cfs and is further limited as described below.

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish

passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708 shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application R-69708, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application R-69708, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for R-69708 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

- D) Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion on Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

The permittee shall allow the watermaster access to the meter; provided however, where the meter is located within a private structure, the watermaster shall request access upon reasonable notice.

- E) Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- F) At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.
- G) As conditioned, the proposed use will not impair or be detrimental to the public interest.

***Findings of Fact and Conclusions of Law***

Pursuant to OAR 690-410-070 and OAR 690-400-010(11) water is available for the proposed use November 1 through May 31 of each year. Under the South Coast Basin Program OAR 690-517-001, the use is allowable as requested. The proposed use will not injure other water rights and complies with rules of the Water Resources Commission. Finally, as conditioned above and on the attached draft permit the proposed use will not impair or be detrimental to the public interest.

Therefore, the applicant, the Oregon Department of Fish and Wildlife, and the Department agree that the proposed use may be allowed as conditioned above and on the attached draft permit without detriment or impairment to the public interest.

The applicant, the Oregon Department of Fish and Wildlife, and the Department agree on all other aspects of the attached draft permit and therefore agree to the entry of this Stipulated Final Order. Therefore, the Department finds and the applicant and the Oregon Department of Fish and Wildlife agree that, if exercised in accordance with the attached draft permit, the proposed use will not impair or be detrimental to the public interest.

\_\_\_\_\_  
On Behalf of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
On Behalf of the Oregon Department  
of Fish and Wildlife

\_\_\_\_\_  
Date

\_\_\_\_\_  
On Behalf of the Oregon Department  
of Water Resources

\_\_\_\_\_  
Date

### Stipulated Final Order

Pursuant to the Agreement described above, Application S-69654 therefore is approved with the above modifications to the Proposed Final Order. Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon a permit being issued for the reservoirs proposed under application R-69708 (source of 614 acre-feet). Permit issuance is also contingent upon the applicant submitting a revised map, meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use. Minor modification to place of use and type of use, as described on the attached draft permit, may occur as a result of the map revision. Finally, permit issuance shall be contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.

DATED \_\_\_\_\_, 1998

\_\_\_\_\_  
Weisha Mize  
Administrative Law Judge

STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION  
P.O. BOX 503  
BANDON, OREGON 97411

(541) 347-3062

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-69654

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK, AND LEGALLY STORED WATER UNDER APPLICATION R-69708

PURPOSE OR USE: CRANBERRY OPERATIONS ON 162.4 ACRES, SUPPLEMENTAL CRANBERRY OPERATIONS ON 18.1 ACRES AND AGRICULTURE USE ON 27.7 ACRES

MAXIMUM RATE/VOLUME ALLOWED: 614.0 ACRE-FEET OF STORED WATER; MAXIMUM INSTANTANEOUS DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED UNDER APPLICATION R-69708, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW.

PERIOD OF USE: NOVEMBER 1 THROUGH MAY 31 FROM NATURAL FLOW AND YEAR ROUND FROM STORED WATER ONLY

DATE OF PRIORITY: JUNE 30, 1988

POINT OF DIVERSION LOCATION: BILL CREEK - NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH & 2480 FEET EAST 1/4 CORNER, SECTION 3, AND STORED WATER FROM 23 RESERVOIRS DESCRIBED IN APPLICATION R-69708.



Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing R-69708, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for R-69708, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for R-69708 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<sup>1</sup> CRANBERRY	<sup>2</sup> AGRICULTURE	<sup>3</sup> SUPPLEMENTAL CRANBERRY
NE 1/4 NE 1/4	5.9 ACRES		4.3 ACRES
NW 1/4 NE 1/4	5.0 ACRES		
SE 1/4 NE 1/4	4.3 ACRES		0.7 ACRE
SECTION 32			
NW 1/4 NW 1/4	25.0 ACRES		
SW 1/4 NW 1/4	18.0 ACRES		
SE 1/4 NW 1/4	7.0 ACRES		
SECTION 33			

TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

	<sup>1</sup> CRANBERRY	<sup>2</sup> AGRICULTURE	<sup>3</sup> SUPPLEMENTAL
NW 1/4 SW 1/4 SECTION 3	7.0 ACRES		
NW 1/4 SW 1/4	15.0 ACRES	6.0 ACRES	
SW 1/4 SW 1/4	1.2 ACRES		13.1 ACRES
SE 1/4 SW 1/4	15.2 ACRES		
NE 1/4 SE 1/4 SECTION 4	12.0 ACRES		
NE 1/4 NE 1/4	7.0 ACRES	0.4 ACRE	
NW 1/4 NE 1/4	1.2 ACRES	0.1 ACRE	
SW 1/4 NE 1/4		2.0 ACRES	
SE 1/4 NE 1/4	8.2 ACRES	3.9 ACRES	
NE 1/4 SE 1/4	6.0 ACRES	5.0 ACRES	
SE 1/4 SE 1/4 SECTION 5	0.2 ACRE		
NE 1/4 NE 1/4	4.7 ACRES	3.0 ACRES	
NW 1/4 NE 1/4	16.5 ACRES		
SW 1/4 NE 1/4 SECTION 9	3.0 ACRES	7.3 ACRES	

## TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

- <sup>1</sup> - Use of water is for primary irrigation and agriculture use for Cranberry Operations.
- <sup>2</sup> - Use of water is for primary agriculture use and supplemental Irrigation use for Cranberry Operations.
- <sup>3</sup> - Use of water is for supplemental agriculture use and irrigation use for Cranberry Operations.

## Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion from Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more

frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

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

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

### **STANDARD CONDITIONS**

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2002. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued \_\_\_\_\_, 199\_

**DRAFT - THIS IS NOT A PERMIT**

---

Water Resources Department  
Director

Application S-69654  
Basin 17

Water Resources Department  
Volume 3 BEAR CREEK AND MISC.  
MGMT.CODE

PERMIT DRAFT  
District 19

Application S-69654

Water Resources Department

PERMIT DRAFT



# Oregon

John A. Kitzhaber, M.D., Governor

**Water Resources Department**

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

October 27, 1997

**URGENT**

Jill Zarnowitz  
Oregon Department of Fish and Wildlife  
2501 SW First Ave, PO Box 59  
Portland, Oregon 97207

**RE: Settlement of Protests on Windhurst Road Water Corporation Water Right Applications:  
Stipulated Final Order and Agreement for Application R-69708 and,  
Draft Stipulated Final Order and Agreement for Application S-69654**

Dear Jill:

Enclosed are a Stipulated Final Order and Agreement for Application R-69708 and a draft Stipulated Final Order and Agreement for S-69654. These documents are the result of a long awaited agreement between the Department, ODFW, and the applicant. Reese Bender from the ODFW Charleston office has been very involved with the settlement and has reviewed the enclosed documents (See attached letter from Reese). The settlement is laid out in pages 1-4 of the document so I will not try to summarize it here.

ODFW has official party status to this case and therefore I am requesting that you sign and date page (4) of the agreement for R-69708. This type of document is the typical document we use to settle cases in the jurisdiction of the Hearings Officer. The agreement for S-69654 is still in draft form due to some mapping deficiencies. Once the mapping is corrected I will send an agreement for S-69654 for your signature.

Please sign and return the agreement for R-69708 to my attention as soon as possible. This protest has been around since 1989 and the applicant is anxious to begin work on streamflow monitoring and reservoir construction.

If you have any question please call me at 1-800-624-3199 ex. 262.

Sincerely,

Adam Sussman  
Protest Program Coordinator

cc: John Youngquist  
827 SE Mosher Ave.  
Roseburg, Oregon 97470

Reese Bender, ODFW  
Weisha Mize, OWRD

RECEIVED

OCT 24 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

Oregon

DEPARTMENT OF  
FISH AND  
WILDLIFE



CHARLESTON  
DISTRICT OFFICE

October 23, 1997

Adam Sussman  
Oregon Water Resources Department  
158 12th Street NE  
Salem, OR 97310-0210

RE: Draft Agreement and Stipulated Final Order for S-69654 and R-69708  
Windhurst Road Water Corporation

Dear Adam:

We have reviewed your revised DRAFT agreement for S-69654 and R-69708 (letter dated 10/16/97), and we now support all terms of the Agreement.

Thanks for your help in resolving this Water Right.

Sincerely,

A handwritten signature in cursive script that reads "Reese E. Bender".

Reese Bender  
Assistant District Fisheries Biologist



4475 Boat Basin Drive  
PO Box 5430  
Charleston, OR 97420  
(541) 888-5515  
FAX (541) 888-6860



State of Oregon  
Water Resources Department

In the matter of Water Right	)	
Application R-69708	)	<b>Agreement and</b>
Windhurst Road Water Corporation	)	<b>Stipulated Final Order</b>

***Application History***

On September 6, 1988, Windhurst Road Water Corporation submitted an application to the Department for a water use permit. The proposed use requested to store 100 acre-feet of water in an on-channel reservoir for cranberry operations. The proposed location and source of water was Bill Creek, tributary to Bear Creek and within the Coquille River Basin.

In April 1989, pursuant to OAR 690-11-080(2)(a)(C), the request was presented to the Water Resources Commission for a determination of whether a public interest hearing was necessary (Agenda Item G, WRC Meeting April 17, 1989). The Commission voted to hold a public interest hearing due to fisheries concerns raised by the Oregon Department of Fish and Wildlife (ODFW). On August 10, 1989, a contested case hearing was set for October 11, 1989, by Administrative Law Judge (ALJ) Weisha Mize. Parties named to the proceeding are the applicant, ODFW, and the Department. On the unopposed motions of the applicant the hearing has been continued several times to allow for settlement negotiations and application modifications.

On June 1, 1994, the application was amended from one on-channel reservoir storing 100 acre-feet to 23 off-channel reservoirs storing 614 acre-feet. The source of water was not modified.

The Department processed the amended application under Senate Bill 674 (1995 Legislative Session) and on August 6, 1996, conditionally approved the use. The Department's Proposed Order does not change contested case party status. On September 18, 1996, the applicant protested the Department's Proposed Final Order and requested that the application be placed on administrative hold while settlement discussions continued.

The applicant, Oregon Department of Fish and Wildlife, and the Department agree that the issue(s) in this case may be settled on the following terms and conditions, and hereby stipulate to the following:

- 1) Parties waive the right to file exceptions to this order and the right to judicial review under ORS 536.075(2) and 183.482.

- 2) Entry of this stipulated final order by the Administrative Law Judge.
- 3) Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon submittal and approval of plans and specifications for Windhurst and Bee Sting Reservoirs. Additional dam safety conditions may be added to the attached draft permit following approval of final plans and specifications. Permit issuance is also contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.
- 4) The permit shall contain the following new or modified conditions as well as the conditions contained on the attached draft permit.
  - A) Season of Use: November 1 through May 31
  - B) Volume: 614 acre-feet to be stored in 23 off-channel reservoirs
  - C) Instantaneous Diversion Rate: the maximum diversion rate from Bill Creek authorized under this permit, combined with the diversion authorized under any permit for application S-69654, shall not exceed 2.75 cfs and is further limited as described below.

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the live flow diversion authorized under any permit for application S-69654, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application S-69654, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application S-69654, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for S-69654 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

- D) Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

The permittee shall allow the watermaster access to the meter; provided however, where the meter is located within a private structure, the watermaster shall request access upon reasonable notice.

- E) Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- F) At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.
- G) As conditioned, the proposed use will not impair or be detrimental to the public interest.

***Findings of Fact and Conclusions of Law***

Pursuant to OAR 690-410-070 and OAR 690-400-010(11) water is available for the proposed use November 1 through May 31 of each year. Under the South Coast Basin Program OAR 690-517-001, the use is allowable as requested. The proposed use will not injure other water rights and complies with rules of the Water Resources Commission. Finally, as conditioned above and on the attached draft permit the proposed use will not impair or be detrimental to the public interest.

Therefore, the applicant, the Oregon Department of Fish and Wildlife, and the Department agree that the proposed use may be allowed as conditioned above and on the attached draft permit without detriment or impairment to the public interest.

The applicant, the Oregon Department of Fish and Wildlife, and the Department agree on all other aspects of the attached draft permit and therefore agree to the entry of this Stipulated Final Order. Therefore, the Department finds and the applicant and the Oregon Department of Fish and Wildlife agree that, if exercised in accordance with the attached draft permit, the proposed use will not impair or be detrimental to the public interest.

\_\_\_\_\_  
On Behalf of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
On Behalf of the Oregon Department  
of Fish and Wildlife

\_\_\_\_\_  
Date

\_\_\_\_\_  
On Behalf of the Oregon Department  
of Water Resources

\_\_\_\_\_  
Date

**Stipulated Final Order**

Pursuant to the Agreement described above, Application R-69708 therefore is approved with the above modifications to the Proposed Final Order. Issuance of the permit, a draft of which is attached shall be contingent upon submittal and approval of plans and specifications for Windhurst and Bee Sting Reservoirs. Additional dam safety conditions may be added to the attached draft permit following approval of final plans and specifications. Permit issuance is also contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.

DATED \_\_\_\_\_, 1997

\_\_\_\_\_  
Weisha Mize  
Administrative Law Judge

STATE OF OREGON

COUNTY OF COOS

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION  
PO BOX 503  
BANDON, OREGON 97411

(541) 347-3062

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: R-69708

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK

POINT OF DIVERSION LOCATION: NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH AND 2480 FEET EAST FROM W 1/4 CORNER SECTION 3

STORAGE FACILITIES: 23 RESERVOIRS, BEING WINDHURST; HAGA #1,2,3,4; BEE STING; SCHERER #1,2,3,4,5,6,7,8; MANICKE #1,2,3,4; RICHERT #1,2,3,4,& 5

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-69654 FOR CRANBERRY OPERATIONS.

VOLUME OF USE: 614.0 ACRE-FEET EACH YEAR, BEING 470.0 ACRE-FEET IN WINDHURST, 9.1 ACRE-FEET IN HAGA #1, 5.0 ACRE-FEET IN HAGA #2, 2.9 ACRE-FEET IN HAGA #3, 6.0 ACRE-FEET IN HAGA #4, 23.0 ACRE-FEET IN BEE STING, 1.4 ACRE-FEET IN SCHERER #1, 1.4 ACRE-FEET IN SCHERER #2, 5.6 ACRE-FEET IN SCHERER #3, 7.0 ACRE-FEET IN SCHERER #4, 1.5 ACRE-FEET IN SCHERER #5, 4.2 ACRE-FEET IN SCHERER #6, 7.7 ACRE-FEET IN SCHERER #7, 4.2 ACRE-FEET IN SCHERER #8, 9.1 ACRE-FEET IN MANICKE #1, 9.1 ACRE-FEET IN MANICKE #2, 9.1 ACRE-FEET IN MANICKE #3, 2.7 ACRE-FEET IN MANICKE #4, 5.6 ACRE-FEET IN RICHERT #1, 9.1 ACRE-FEET IN RICHERT #2, 9.1 ACRE-FEET IN RICHERT #3, 5.6 ACRE-FEET IN RICHERT #4, AND 5.6 ACRE-FEET IN RICHERT #5

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH MAY 31

DATE OF PRIORITY: SEPTEMBER 6, 1988, FOR 100 ACRE-FEET AND JUNE 1, 1994, FOR 514 ACRE-FEET



**INSTANTANEOUS DIVERSION RATE: THE MAXIMUM DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED UNDER ANY PERMIT FOR APPLICATION S-69654, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW:**

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the live flow diversion authorized under any permit for application S-69654, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and any permit authorizing application S-69654, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with any permit issued for application S-69654, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from this permit and any permit issued for S-69654 exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

The area submerged by the Windhurst Reservoir, when full, will be 23.0 acres and the maximum depth of water will be 24.0 feet. The maximum height of the dam shall not exceed 28.0 feet.

The area submerged by the Haga Reservoir #1, when full, will be 2.6 acres and the maximum depth of water will be 9.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #2, when full, will be 0.8 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #3, when full, will be 0.5 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Haga Reservoir #4, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 7.0 feet.

The area submerged by the Bee Sting Reservoir, when full, will be 2.0 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 25.0 feet.

The area submerged by the Scherer Reservoir #1, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #2, when full, will be 0.4 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #3, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #4, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #5, when full, will be 0.5 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #6, when full, will be 0.7 acre and the maximum depth of water will be 8.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #7, when full, will be 1.0 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Scherer Reservoir #8, when full, will be 0.5 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 4.0 feet.

The area submerged by the Manicke Reservoir #1, when full, will be 1.1 acres and the maximum depth of water will be 11.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #3, when full, will be 1.0 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Manicke Reservoir #4, when full, will be 0.3 acre and the maximum depth of water will be 10.5 feet. The maximum height of the dam shall not exceed 9.9 feet.

The area submerged by the Richert Reservoir #1, when full, will be 0.9 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #2, when full, will be 1.0 acre and the maximum depth of water will be 10.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #3, when full, will be 0.7 acre and the maximum depth of water will be 12.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #4, when full, will be 0.7 acre and the maximum depth of water will be 11.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

The area submerged by the Richert Reservoir #5, when full, will be 0.6 acre and the maximum depth of water will be 13.0 feet. The maximum height of the dam shall not exceed 6.0 feet.

THE AREAS TO BE SUBMERGED BY THE RESERVOIR ARE LOCATED AS FOLLOWS:

NE 1/4 NE 1/4 SECTION 32	MANICKE #1
NW 1/4 NW 1/4 SW 1/4 NW 1/4 SE 1/4 NW 1/4 SECTION 33	MANICKE #2 MANICKE #3 MANICKE #4
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.	
NW 1/4 SW 1/4 SECTION 3	HAGA #1
SW 1/4 NW 1/4 NE 1/4 SW 1/4 NW 1/4 SW 1/4 SW 1/4 SW 1/4 SE 1/4 SW 1/4 NE 1/4 SE 1/4 NW 1/4 SE 1/4 SECTION 4	SCHERER #5 BEE STING SCHERER #5, #7, AND #8 HAGA #4 HAGA #2 AND #3 WINDHURST WINDHURST
NE 1/4 NE 1/4 SW 1/4 NE 1/4 SE 1/4 NE 1/4 NE 1/4 SE 1/4 SECTION 5	SCHERER #3 SCHERER #1 SCHERER #2 AND #4 SCHERER #6
NE 1/4 NE 1/4 NW 1/4 NE 1/4 SW 1/4 NE 1/4 SECTION 9	RICHERT #2 RICHERT #1 AND #3 RICHERT #5 AND #4
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.	

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may

be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter; provided however, where the meter is located within a private structure, the watermaster shall request access upon reasonable notice.

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

At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

**ADDITIONAL DAM SAFETY CONDITIONS MAY BE ADDED HERE FOR WINDHURST AND BEE STING RESERVOIRS AFTER APPROVAL OF FINAL PLANS AND SPECIFICATIONS**

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

### **STANDARD CONDITIONS**

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance. Complete application of the water to the use shall be made on or before October 1, 2001.

Issued \_\_\_\_\_, 199\_

**DRAFT - THIS IS NOT A PERMIT**

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Water Resources Department  
Director



State of Oregon  
Water Resources Department

**DRAFT**

In the matter of Water Right                    )  
Application S-69654                                )  
Windhurst Road Water Corporation            )                    **Agreement and  
Stipulated Final Order**

***Application History***

On June 30, 1988, Windhurst Road Water Corporation submitted an application to the Department for a water use permit. The proposed use requested 34.79 cubic feet per second (cfs) from stored water and live flow for cranberry operations. The proposed source of water was an on-channel reservoir and live flow from Bill Creek, tributary to Bear Creek and within the Coquille River Basin.

In April 1989, pursuant to OAR 690-11-080(2)(a)(C), the request was presented to the Water Resources Commission for a determination of whether a public interest hearing was necessary (Agenda Item G, WRC Meeting April 17, 1989). The Commission voted to hold a public interest hearing due to fisheries concerns raised by the Oregon Department of Fish and Wildlife (ODFW). On August 10, 1989, a contested case hearing was set for October 11, 1989, by Administrative Law Judge (ALJ) Weisha Mize. Parties named to the proceeding are the applicant, ODFW, and the Department. On the unopposed motions of the applicant the hearing has been continued several times to allow for settlement negotiations and application modifications.

On June 1, 1994, the application was amended to request the use of 614 acre-feet of stored water from 23 off-channel reservoirs and 10 cfs of live flow from Bill Creek.

The Department processed the amended application under Senate Bill 674 (1995 Legislative Session) and on August 6, 1996, conditionally approved the use. The Department's Proposed Order does not change contested case party status. On September 18, 1996, the applicant protested the Department's Proposed Final Order and requested that the application be placed on administrative hold while settlement discussions continued.

The applicant, Oregon Department of Fish and Wildlife, and the Department agree that the issue(s) in this case may be settled on the following terms and conditions, and hereby stipulate to the following:

- 1) Parties waive the right to file exceptions to this order and the right to judicial review under ORS 536.075(2) and 183.482.

- 2) Entry of this stipulated final order by the Administrative Law Judge.
- 3) Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon a permit being issued for the reservoirs proposed under application R-69708 (source of 614 acre-feet). Permit issuance is also contingent upon the applicant submitting a revised map, meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use. Finally, permit issuance shall be contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.
- 4) The permit shall contain the following new or modified conditions as well as the conditions contained on the attached draft permit.
  - A) Season of Use: November 1 through May 31
  - B) Source: Bill Creek and 614 acre-feet stored water in 23 off-channel reservoirs
  - C) Instantaneous Diversion Rate: the maximum diversion rate from Bill Creek authorized under this permit, combined with the diversion authorized under application R-69708, permit XXXXX, shall not exceed 2.75 cfs and is further limited as described below.

**DRAFT**

Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

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Appropriation of water under this permit, combined with the diversion authorized under application R-69708, permit XXXXX, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and permit XXXXX, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with permit XXXXX, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from permits XXXXX, and XXXXX exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

- D) Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion on Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

The permittee shall allow the watermaster access to the meter; provided however, where the meter is located within a private structure, the watermaster shall request access upon reasonable notice.

- E) Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in each reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- F) At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.
- G) As conditioned, the proposed use will not impair or be detrimental to the public interest.

**Findings of Fact and Conclusions of Law**

Pursuant to OAR 690-410-070 and OAR 690-400-010(11) water is available for the proposed use November 1 through May 31 of each year. Under the South Coast Basin Program OAR 690-517-001, the use is allowable as requested. The proposed use will not injure other water rights and complies with rules of the Water Resources Commission. Finally, as conditioned above and on the attached draft permit the proposed use will not impair or be detrimental to the public interest.

Therefore, the applicant, the Oregon Department of Fish and Wildlife, and the Department agree that the proposed use may be allowed as conditioned above and on the attached draft permit without detriment or impairment to the public interest.

The applicant, the Oregon Department of Fish and Wildlife, and the Department agree on all other aspects of the attached draft permit and therefore agree to the entry of this Stipulated Final Order. Therefore, the Department finds and the applicant and the Oregon Department of Fish and Wildlife agree that, if exercised in accordance with the attached draft permit, the proposed use will not impair or be detrimental to the public interest.

**DRAFT**

\_\_\_\_\_  
On Behalf of Applicant

\_\_\_\_\_  
Date

**DRAFT**

\_\_\_\_\_  
On Behalf of the Oregon Department  
of Fish and Wildlife

\_\_\_\_\_  
Date

**DRAFT**

\_\_\_\_\_  
On Behalf of the Oregon Department  
of Water Resources

\_\_\_\_\_  
Date

### Stipulated Final Order

Pursuant to the Agreement described above, Application S-69654 therefore is approved with the above modifications to the Proposed Final Order. Issuance of the permit, a draft of which is attached and incorporated herein by reference, shall be contingent upon a permit being issued for the reservoirs proposed under application R-69708 (source of 614 acre-feet). Permit issuance is also contingent upon the applicant submitting a revised map, meeting the requirements of OAR 690-310-050, and clearly identifying place of use and type of use. Finally, permit issuance shall be contingent upon the applicant providing the names and addresses of other property owners affected by this proposed use and written authorization, easement, or proof of ownership for non-owned lands crossed by a proposed ditch, canal, or other works.

DATED \_\_\_\_\_, 1997

**DRAFT**

---

Weisha Mize  
Administrative Law Judge

STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION  
P.O. BOX 503  
BANDON, OREGON 97411

**DRAFT**

(541) 347-3062

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-69654

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK, AND LEGALLY STORED WATER UNDER APPLICATION R-69708, PERMIT XXXXX

PURPOSE OR USE: CRANBERRY OPERATIONS ON 162.4 ACRES, SUPPLEMENTAL CRANBERRY OPERATIONS ON 18.1 ACRES AND AGRICULTURE USE ON 27.7 ACRES

MAXIMUM RATE/VOLUME ALLOWED: 614.0 ACRE-FEET OF STORED WATER; MAXIMUM INSTANTANEOUS DIVERSION RATE FROM BILL CREEK AUTHORIZED UNDER THIS PERMIT, COMBINED WITH THE DIVERSION AUTHORIZED UNDER APPLICATION R-69708, PERMIT XXXXX, SHALL NOT EXCEED 2.75 CFS AND IS FURTHER LIMITED AS DESCRIBED BELOW.

PERIOD OF USE: NOVEMBER 1 THROUGH MAY 31 FROM NATURAL FLOW AND YEAR ROUND FROM STORED WATER ONLY

DATE OF PRIORITY: JUNE 30, 1988

POINT OF DIVERSION LOCATION: BILL CREEK - NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH & 2480 FEET EAST 1/4 CORNER, SECTION 3, AND STORED WATER FROM 23 RESERVOIRS DESCRIBED IN APPLICATION R-69708, PERMIT XXXXX.



Prior to any appropriation under this permit, the permittee shall install a staff gage downstream from the confluence of Bear Creek and Bill Creek and develop a medium flow rating curve for the range 10 cfs to 25 cfs. The staff gage shall be installed under the supervision of the District 19 watermaster at a suitable location within Section 34, Township 28 South, Range 14 West, W.M. and shall be accessible to ODFW and Water Resources staff. The staff gage and rating curve shall be maintained by the permittee to the satisfaction of the watermaster and shall at a minimum include two streamflow measurements per year. The rating curve and streamflow measurements shall be on file at the District 19 watermaster office and at the Water Resources Department in Salem.

Prior to any appropriation under this permit, the permittee shall also install a standardized weir and staff gage at the point of diversion. The weir shall be designed and installed to the satisfaction of the District 19 watermaster and the Coos-Coquille ODFW District Biologist. The weir shall be accessible to ODFW and Water Resources staff. The weir and staff gage shall be maintained by the permittee to the satisfaction of the watermaster. The weir shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish.

Appropriation of water under this permit, combined with the diversion authorized under application R-69708, permit XXXXX, shall only occur when the flow on Bear Creek, as measured at the staff gage, exceeds 17 cfs. While appropriation is occurring under this permit, and permit XXXXX, a flow of at least 17 cfs shall be maintained at the staff gage on Bear Creek. At no time shall the permittee, under this permit, in combination with permit XXXXX, divert more than 50% of the flow from Bill Creek, as measured at the weir, and at no time shall the combined diversions from permits XXXXX, and XXXXX exceed 2.75 cfs. The permittee shall be responsible for monitoring streamflows so that these conditions are not violated.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<sup>1</sup> CRANBERRY	<sup>2</sup> AGRICULTURE	<sup>3</sup> SUPPLEMENTAL CRANBERRY
NE 1/4 NE 1/4	5.9 ACRES	<b>DRAFT</b>	4.3 ACRES
NW 1/4 NE 1/4	5.0 ACRES		
SE 1/4 NE 1/4	4.3 ACRES		0.7 ACRE
SECTION 32			
NW 1/4 NW 1/4	25.0 ACRES		
SW 1/4 NW 1/4	18.0 ACRES		
SE 1/4 NW 1/4	7.0 ACRES		
SECTION 33			

TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

	<sup>1</sup> CRANBERRY	<sup>2</sup> AGRICULTURE	<sup>3</sup> SUPPLEMENTAL
NW 1/4 SW 1/4 SECTION 3	7.0 ACRES		
NW 1/4 SW 1/4	15.0 ACRES	6.0 ACRES	
SW 1/4 SW 1/4	1.2 ACRES		13.1 ACRES
SE 1/4 SW 1/4	15.2 ACRES		
NE 1/4 SE 1/4 SECTION 4	12.0 ACRES		
NE 1/4 NE 1/4	7.0 ACRES	0.4 ACRE	
NW 1/4 NE 1/4	1.2 ACRES	0.1 ACRE	
SW 1/4 NE 1/4		2.0 ACRES	
SE 1/4 NE 1/4	8.2 ACRES	3.9 ACRES	
NE 1/4 SE 1/4	6.0 ACRES	5.0 ACRES	
SE 1/4 SE 1/4 SECTION 5	0.2 ACRE		
NE 1/4 NE 1/4	4.7 ACRES	3.0 ACRES	
NW 1/4 NE 1/4	16.5 ACRES		
SW 1/4 NE 1/4 SECTION 9	3.0 ACRES	7.3 ACRES	

**DRAFT**

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

<sup>1</sup> - Use of water is for primary irrigation and agriculture use for Cranberry Operations.

<sup>2</sup> - Use of water is for primary agriculture use and supplemental Irrigation use for Cranberry Operations.

<sup>3</sup> - Use of water is for supplemental agriculture use and irrigation use for Cranberry Operations.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion from Bill Creek. The permittee shall maintain the meter in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more

frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

At the point of diversion from Bill Creek the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The point of diversion works shall not obstruct fish passage without providing a fishway to ensure adequate upstream and downstream passage for fish. The required screens and, if necessary fishways, shall be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

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

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**STANDARD CONDITIONS**

*DRAFT*

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued \_\_\_\_\_, 199\_\_

**DRAFT - THIS IS NOT A PERMIT**

\_\_\_\_\_  
Water Resources Department  
Director

**DRAFT**

Application S-69654  
Basin 17

Water Resources Department  
Volume 3 BEAR CREEK AND MISC.  
MGMT.CODE

PERMIT DRAFT  
District 19

Application S-69654

Water Resources Department

PERMIT DRAFT

## PROTEST TO A PROPOSED FINAL ORDER

Application Number: R-69708 & S-69654

Applicant's Name: Windhurst Road Sub District  
Formally Windhurst Road Water Corporation

Name, address and telephone number of protestant:

M. John Youngquist  
827 SE Mosher Ave.  
Roseburg, Oregon 97470

Phone/Fax: (541) 672 - 5692

on behalf of:  
Windhurst Road Sub District  
P. O. Box 503  
Bandon, Oregon 97411

Phone: (541) 347 - 3062

Interest in the proposed final orders:

This protest is on behalf of and at the request of the directors of the Sub District affected by the proposed final order.

Describe how the proposed final orders will be detrimental to the applicant's interest:

1. These files have been under contested case status for several years. The original application was for construction of a dam in the channel of Bill Creek. The in-channel reservoir was objected to by the Oregon Department of Fish and Wildlife (ODFW) and the Sub District moved the reservoir(s) off channel.

The proposed final orders (PFOs) do not recognize the negotiations and agreements the Sub District has with ODFW.

2. The PFOs do not address the agreement between ODFW and the Sub District. The following language should be included in both permits:

"A memorandum of understanding between the Oregon Department of Fish and Wildlife and the Windhurst Road Sub District with conditions appertaining to the use of water from Bill Creek will be approved by the ODFW before diversion of water may occur."

3. The memorandum of understanding will address "by pass" flows for this project, period of allowed pumping for storage and amount of water to be pumped. The Sub District will pump less than 3.0 cfs instead of the 10 cfs noted on the PFOs and will have adequate fish screening at the diversion to protect the resource.

2

Fish passage will not be necessary because the only obstruction in Bill Creek will be construction of a weir to measure by pass flows. The weir will be constructed in such a manner not to impede the passage of fish.

The allowed period of use (pumping to storage) will occur from November - May 31 each year.

4. The height of dam and amount of water impounded in the Windhurst Reservoir requires that engineered plans and specifications are needed for the structure. Mr. John Falk and Mr. Barry Norris from the Department have made their required initial inspection of the site.

How the Proposed Final Order may be corrected:

1. Insert the language referring to the memorandum of understanding between ODFW and the Sub District.
2. Change the period of use from November - April 30 each year to November - May 31 each year.
3. Reduce the amount of appropriation from 10 cfs to 3 cfs, or less.
4. Modify the language referring to fish passage to allow a waiver for passage if the weir to be constructed does not impede the fish passage.
5. Inform Weisha Mize of the status of these applications.
6. Note that engineered plans and specifications are required.

Cite any legal authority supporting the protest:

None cited.

Contest Case Hearing:

The Sub District and ODFW have been attempting to resolve these files without having a contested case hearing. It would be acceptable to have a meeting in Salem between Stephanie Birchfield, Reese Bender, Adam Sussman and the Sub District to resolve the issues.

  
M. John Youngquist

9-18-96  
Date

cc: Windhurst Road Sub District  
Al Cook, Regional Manager



**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT

827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (541) 672-5692

PROJECT MANAGEMENT

PERMITS/LICENSING

RESEARCH

PLANNING

September 18, 1996

Mr. Dwight French  
Oregon Water Resources Department  
158 12<sup>th</sup> Street, N.E.  
Salem, Oregon 97310

Re: File No. R-69708

Dear Mr. French:

Enclosed find a supplemental sheet to accompany the application map describing each reservoir by coordinates from a recognized corner and a protest to the proposed final order.

In addition, you requested the names and addresses of affected property owners associated with this application. The names and addresses of property owners not associated with the applicants is noted under the remarks section of each reservoir application. I assume that the request is for the names and addresses of the participants within the sub district. We did not realize that the Department desired to have each sub district member's address at the time of filing. Their addresses are:

Ronny & Gloria Haga  
Route 1, Box 2095  
Bandon, Oregon 97411  
Phone: 541-347-2295

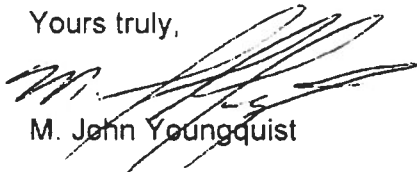
Bruce L. Manicke  
P. O. Box 584  
Bandon, Oregon 97411  
Phone: 541-347-2622

David F. Richert  
Box 86  
Bandon, Oregon 97411  
Phone: 541-347-2710

Wayne R. Scherer  
Bonnie L. Scherer  
P. O. Box 503  
Bandon, Oregon 97411  
Phone: 541-347-3062

Please contact me if additional information is needed.

Yours truly,



M. John Youngquist

cc: Windhurst Road Sub District

WINDHURST ROAD SUB DISTRICT  
SUPPLEMENTAL SHEET to APPLICATION MAP  
RESERVOIR LOCATIONS

RESERVOIR	N/S	E/W	¼ ¼	SECTION
WINDHURST RESERVOIR	3200 FEET SOUTH	3610 FEET EAST	NW¼SE¼	4
BEE STING	3920 FEET SOUTH	1390 FEET EAST	NE¼SW¼	4

BOTH FROM THE NORTHWEST CORNER OF SECTION 4 AND WITHIN SECTION 4, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY.  
Note: The Windhurst Reservoir is located to the center of the reservoir because there is a dike around the whole reservoir

MANICKE:

RESERVOIR	N/S	E/W	¼ ¼	SECTION
MANICKE No. 1	4550 FEET NORTH	750 FEET WEST	NE¼NE¼	32
MANICKE No. 2	3290 FEET NORTH	325 FEET EAST	SW¼NW¼	33
MANICKE No. 3	2990 FEET NORTH	310 FEET EAST	SW¼NW¼	33
MANICKE No. 4	2650 FEET NORTH	1820 FEET EAST	SE¼NW¼	33

ALL FROM THE SOUTHEAST CORNER OF SECTION 32, WITHIN SECTIONS 32 & 33, TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY

HAGA:

RESERVOIR	N/S	E/W	¼ ¼	SECTION
HAGA No. 1	1260 FEET NORTH	5000 FEET EAST	NE¼SE¼	4
HAGA No. 2	780 FEET NORTH	1780 FEET EAST	SE¼SW¼	4
HAGA No. 3	20 FEET NORTH	2620 FEET EAST	SE¼SW¼	4
HAGA No. 4	540 FEET NORTH	550 FEET EAST	SW¼SW¼	4

ALL FROM THE SOUTHWEST CORNER OF SECTION 4, WITHIN SECTION 4, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY.

WINDHURST ROAD SUB DISTRICT  
 SUPPLEMENTAL SHEET TO APPLICATION  
 PAGE 2

SCHERER:

RESERVOIR	N/S	E/W	¼ ¼	SECTION
SCHERER No. 1	1530 FEET SOUTH	1810 FEET WEST	SW¼NE¼	5
SCHERER No. 2	2590 FEET SOUTH	1535 FEET WEST	SE¼NE¼	5
SCHERER No. 3	1690 FEET SOUTH	1150 FEET WEST	SE¼NE¼	5
SCHERER No. 4	1520 FEET SOUTH	605 FEET WEST	SE¼NE¼	5
SCHERER No. 5	2600 FEET SOUTH	80 FEET EAST	SW¼NW¼	4
SCHERER No. 6	3090 FEET SOUTH	720 FEET WEST	NE¼SE¼	5
SCHERER No. 7	2980 FEET SOUTH	52 FEET EAST	NW¼SW¼	4
SCHERER No. 8	3410 FEET SOUTH	218 FEET EAST	NW¼SW¼	4

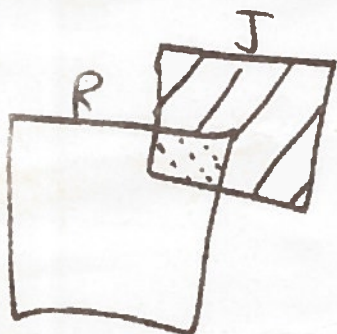
ALL FROM THE NORTHWEST CORNER OF SECTION 4, WITHIN SECTIONS 4 & 5, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY.

RICHERT:

RESERVOIR	NORTH/SOUTH	EAST/WEST	¼ ¼	SECTION
RICHERT No. 1	430 FEET SOUTH	1550 FEET WEST	NW¼NE¼	9
RICHERT No. 2	770 FEET SOUTH	1240 FEET WEST	NE¼NE¼	9
RICHERT No. 3	1220 FEET SOUTH	2350 FEET WEST	NW¼NE¼	9
RICHERT No. 4	2100 FEET SOUTH	2100 FEET WEST	SW¼NE¼	9
RICHERT No. 5	1500 FEET SOUTH	1980 FEET WEST	SW¼NE¼	9

ALL FROM THE NORTHEAST CORNER OF SECTION 9, WITHIN SECTION 9, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY.

→  $\frac{Ac}{2.0}$



$\frac{Use}{CU}$

$\frac{Supp (underlying)}{IR, TC}$

- ① Spreadsheet  
Acres, Use, Supp (underlying)
- ② Where offset due to  
map... fix + send
- ③ If offset due to  
movement X-Fer + in  
the meantime call pri.

STATE OF OREGON  
COUNTY OF COOS

## CERTIFICATE OF WATER RIGHT

**This Is to Certify, That** H. H. and Wm. DUFORT  
of Bandon, State of Oregon, has made proof  
to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of  
Geiger Creek  
a tributary of Coquille River for the purpose of  
Flooding cranberry bogs  
under Permit No. 10728. of the State Engineer, and that said right to the use of said waters  
has been perfected in accordance with the laws of Oregon; that the priority of the right hereby  
confirmed dates from October 15, 1932;

that the amount of water to which such right is entitled and hereby confirmed, for the purposes  
aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed  
0.4 cubic foot per second, and shall be limited to not to exceed 0.75 acre foot  
per acre throughout any 30 day period and not to exceed 6 acre feet per acre  
throughout the irrigation season,

The point of diversion is located in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 4, Township 29 South, Range  
14 West, W. M. or its equivalent in case of rotation.

The amount of water used for irrigation, together with the amount secured under any other  
right existing for the same lands, shall be limited to one cubic foot per second  
per acre,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right  
is appurtenant, is as follows:

4 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
Section 4,  
Township 29 South, Range 14 West, W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or  
place of use herein described.

After the expiration of fifty years from the date of this certificate or on the expiration of  
any federal power license issued in connection with this right, and after not less than two years'  
notice in writing to the holder hereof, the State of Oregon, or any municipality thereof, shall have  
the right to take over the dams, plants and other structures and all appurtenances thereto which  
have been constructed for the purpose of devoting to beneficial use the water rights specified  
herein, upon condition that before taking possession the State or municipality shall pay not to  
exceed the fair value of the property so taken, plus such reasonable damages, if any, to valuable,  
serviceable and dependable property of the holder of this certificate, not taken over, as may be  
caused by the severance therefrom of the property taken in accordance with the provisions of section  
47-508, Oregon Code 1930.

WITNESS the signature of the State Engineer, affixed

this 28th day of March, 1935.

CHAS. E. STRICKLIN

State Engineer

Recorded in State Record of Water Right Certificates, Volume 10, page 11113

STATE OF OREGON  
COUNTY OF COOS  
CERTIFICATE OF WATER RIGHT

This Is to Certify, That E. D. and AGNES B. WEBB

of Bandon, State of Oregon 97411, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Geiger Creek a tributary of Coquille River for the purpose of Irrigation under Permit No. 13898 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from June 28, 1939;

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.30 cubic foot per second,

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NE 1/4 SW 1/4, Section 4, Township 29 South, Range 14 West, W. M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 0.1 of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 0.75 acre-foot for each acre irrigated in any 30 day period and shall be still further limited to a diversion of not to exceed 6 acre feet during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

3.0 acres in the NE 1/4 SE 1/4  
Section 5  
Tp. 29 S., R. 14 W., W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this 1st day of July, 1937

CHAS. E. STRICKLIN  
State Engineer

Recorded in State Record of Water Right Certificates, Volume 12, page 13795

17  
1072



STATE OF OREGON  
COUNTY OF COOS  
**CERTIFICATE OF WATER RIGHT**

**This Is to Certify, That** JOHN C. WINDHURST

of P. O. Box 464, Bandon, State of Oregon <sup>97411</sup>, has made proof  
to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of  
Geiger Creek a tributary of Fairy Creek, Coquille River for the purpose of  
irrigation under Permit No. 15653 of the State Engineer, and that said right to the use of said waters  
has been perfected in accordance with the laws of Oregon; that the priority of the right hereby  
confirmed dates from November 29, 1943

that the amount of water to which such right is entitled and hereby confirmed, for the purposes  
aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed  
0.4 cubic feet per second,

or its equivalent in case of rotation, measured at the point of diversion from the stream.  
The point of diversion is located in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 4, Township 29 South, Range  
14 West, W. M.

The amount of water used for irrigation, together with the amount secured under any other  
right existing for the same lands, shall be limited to one-tenth of one cubic foot per second  
per acre, or its equivalent for each acre irrigated and shall be further limited  
to a diversion of not to exceed 0.75 acre-foot for each acre irrigated in any  
30-day period and shall be still further limited to a diversion of not to exceed  
6 acre-feet per acre during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is  
appurtenant, is as follows:

2 acres in NW $\frac{1}{4}$  SW $\frac{1}{4}$   
Section 4  
2 acres in NE $\frac{1}{4}$  SE $\frac{1}{4}$   
Section 5  
Township 29 South, Range 14 West, W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of  
use herein described.

WITNESS the signature of the State Engineer, affixed

this 26th day of August, 1955

.....LEWIS A. STANLEY.....  
State Engineer

Recorded in State Record of Water Right Certificates, Volume 15, page 20828.

STATE OF OREGON
COUNTY OF COOS
CERTIFICATE OF WATER RIGHT

This Is to Certify, That RANKIN-GOULD BOG, INC.

97423

of Coquille, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Geiger Creek a tributary of Fairy Creek for the purpose of irrigation of 6.1 acres,

under Permit No. 15722 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from March 28, 1944,

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.50 cubic foot per second,

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the Lot 1 (NE 1/4 NE 1/4), Section 5, Township 29 South, Range 14 West, W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to - - - - - of one cubic foot per second per acre, if for the irrigation of cranberries, shall be limited to 0.1 of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 0.75 acre foot for each acre irrigated in any 30-day period and shall be still further limited to a diversion of not to exceed 6 acre feet per acre during the irrigation season of each year. If for the irrigation of any other crop, shall be limited to one-eightieth of one cubic foot per second per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 1/2 acre feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

- 0.4 acres Lot 1 (NE 1/4 NE 1/4)
0.1 acres Lot 2 (NW 1/4 NE 1/4)
2.0 acres SW 1/4 NE 1/4
3.6 acres SE 1/4 NE 1/4
Section 5
Township 29 South, Range 14 West, W.M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date. NOVEMBER 19 1959

LEWIS A. STANLEY State Engineer

STATE OF OREGON  
COUNTY OF COOS  
**CERTIFICATE OF WATER RIGHT**

**This Is to Certify, That**      **RONNY O. HAGA**

of **Box 394, Bandon**, State of **Oregon**, has made proof to the satisfaction of the **STATE ENGINEER** of Oregon, of a right to the use of the waters of **Johnson Creek**

a tributary of **Pacific Ocean** for the purpose of **irrigation of 1.3 acres**

under Permit No. **24615** of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from **November 28, 1956**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed **0.13 cubic foot per second**

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the **NW $\frac{1}{4}$  NW $\frac{1}{4}$** , Section 9, T. 29 S., R. 14 W., W. M. Diversion point located **1630 feet South and 110 feet East from NW Corner, SW $\frac{1}{4}$  SW $\frac{1}{4}$** , Section 4.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to **one-tenth** of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed **0.75 acre-foot** for each acre irrigated in any **30-day period** and shall be still further limited to a diversion of not to exceed **6 acre-feet per acre** during the irrigation season of each year for **cranberry irrigation**, and for irrigation of any other crop, this appropriation shall be limited to **one-eightieth** of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed **2 $\frac{1}{2}$  acre \*** and shall

conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

0.5 acre **SW $\frac{1}{4}$  SW $\frac{1}{4}$**   
0.8 acre **SE $\frac{1}{4}$  SW $\frac{1}{4}$**   
Section **4**  
T. 29 S., R. 14 W., W. M.

**\*feet per acre for each acre irrigated during the irrigation season of each year,**

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date.      February 28, 1969

.....  
State Engineer

STATE OF OREGON  
COUNTY OF COOS  
**CERTIFICATE OF WATER RIGHT**

**This Is to Certify, That** ESTATE OF ERWIN RICHERT

of Box 232, Bandon, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of unnamed stream

a tributary of Johnson Creek for the purpose of irrigation of 5.3 acres of cranberries

under Permit No. 27437 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from June 9, 1961

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.13 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 9, T. 29 S., R. 14 W., W. M. Diversion point located: 2670 feet South and 180 feet West from NW $\frac{1}{4}$  Corner, Section 9.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-fortieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre feet per acre for each acre irrigated during the irrigation season of each year; and for irrigation of any other crop, this appropriation shall be limited to one-eightieth of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year;

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

5.3 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 9  
T. 29 S., R. 14 W., W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date. March 30, 1970

CHRIS L. WHEELER

State Engineer

## STATE OF OREGON

COUNTY OF

COOS

## CERTIFICATE OF WATER RIGHT

**This Is to Certify, That**BRUCE L. & JUDITH R. MANICKE,  
GORDON GIBSON, LOWELL MEYER

of P. O. Box 584, Bandon, State of Oregon, 97411, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Ferry Creek

a tributary of Coquille River for the purpose of irrigation, frost protection and harvesting cranberries of 11.1 acres

under Permit No. 31857 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from September 7, 1966

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1.0 cubic foot per second, being 0.14 c.f.s. for irrigation, 1.0 c.f.s. for frost protection and 0.56 c.f.s. for harvesting cranberries

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 29, T. 28 S., R. 14 W., W. M., 4180 feet North and 2480 feet West from the E $\frac{1}{4}$  Corner, Section 32

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-fortieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre feet per acre for each acre irrigated during the irrigation season of each year for cranberries. If for the irrigation of any other crop, this appropriation shall be limited to 1/80th of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

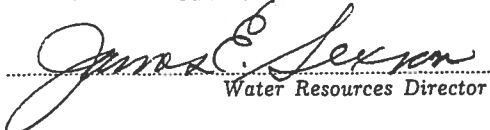
A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

2.8 acres NE $\frac{1}{4}$  NE $\frac{1}{4}$   
2.2 acres SE $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 32  
2.8 acres NE $\frac{1}{4}$  SW $\frac{1}{4}$   
3.3 acres NW $\frac{1}{4}$  SW $\frac{1}{4}$   
Section 33  
T. 28 S., R. 14 W., W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described and is subject to the existing minimum flow policies established by the Water Policy Review Board.

WITNESS the signature of the Water Resources Director, affixed

this date. June 14, 1979

  
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 41, page 48118

77082

STATE OF OREGON  
COUNTY OF COOS  
**CERTIFICATE OF WATER RIGHT**

**This Is to Certify, That**      **ESTATE OF ERWIN F. RICHERT**  
By **Jessie A. Richert, Administratrix**

of      **Box 232, Bandon**      , State of **Oregon** <sup>97411</sup> , has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of an unnamed stream

a tributary of **Johnson Creek**      for the purpose of **irrigation of 5.0 acres**

under Permit No. **35039** of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from **April 6, 1970**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed **0.13 cubic foot per second**

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the **NW $\frac{1}{4}$  SE $\frac{1}{4}$ , Section 9, T. 29 S., R. 14 W., W. M., 2670 feet South and 230 feet East from N $\frac{1}{2}$  Corner, Section 9.**

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to **one-fortieth** of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed **3 acre feet per acre for each acre irrigated during the irrigation season of each year for cranberries.** If for the irrigation of any other crop, this appropriation shall be limited to **one-eightieth** of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed **2 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year,**

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

**3.0 acres NE $\frac{1}{4}$  NE $\frac{1}{4}$   
2.0 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 9  
T. 29 S., R. 14 W., W. M.**

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date. **November 21, 1973**

.....**Chris L. Wheeler**.....  
State Engineer

Recorded in State Record of Water Right Certificates, Volume **31** , page **39525**



STATE OF OREGON  
COUNTY OF COOS  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

RONNY O. HAGA  
ROUTE 1, BOX 2095  
BANDON, OREGON 97411

confirms the right to use the waters of JOHNSON CREEK, a tributary of PACIFIC OCEAN, for the purpose of CRANBERRY IRRIGATION AND TEMPERATURE CONTROL ON 4.25 ACRES.

The right has been perfected under Permit 41467. The date of priority is FEBRUARY 8, 1977. The right is limited to not more than 0.45 CUBIC FOOT PER SECOND; BEING 0.11 CFS FOR IRRIGATION AND 0.45 CFS FOR TEMPERATURE CONTROL or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NW 1/4 NW 1/4, SECTION 9, T 29 S, R 14 W, W.M.;  
250 FEET SOUTH & 110 FEET EAST FROM NW CORNER SECTION 9.

The amount of water used for irrigation of cranberries, together with the amount secured under any other right existing for the same lands, shall be limited to one-fortieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop this right is limited to one-eighth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The right shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

SW 1/4 SW 1/4 4.25 ACRES  
SECTION 4  
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The right is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.

WITNESS the signature of the Water Resources Director,  
affixed this date DECEMBER 29, 1988.

/s/ WILLIAM H. YOUNG  
Water Resources Director

Recorded in State Record of Water Right Certificates numbered 59066

55207.TS

STATE OF OREGON  
COUNTY OF COOS  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

RONNY O. HAGA  
ROUTE 1, BOX 2095  
BANDON, OREGON 97411

confirms the right to use the waters of JOHNSON CREEK, a tributary of PACIFIC OCEAN, for the purpose of TEMPERATURE CONTROL FOR 1.3 ACRES AND FLOOD HARVESTING OF CRANBERRIES ON 5.55 ACRES.

The right has been perfected under Permit 47504. The date of priority is JANUARY 13, 1983. The right is limited to not more than 0.28 CUBIC FOOT PER SECOND; BEING 0.195 CFS FOR TEMPERATURE CONTROL AND 0.28 CFS FOR FLOOD HARVESTING or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

NW 1/4 NW 1/4, SECTION 9, T 29 S, R 14 W, W.M.;  
250 FEET SOUTH & 110 FEET EAST FROM NW CORNER SECTION 9.

The right shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right, and to which such right is appurtenant, is as follows:

	TEMPERATURE CONTROL	FLOOD HARVESTING
SW 1/4 SW 1/4	0.5 ACRE	4.75 ACRES
SE 1/4 SW 1/4	0.8 ACRE	0.80 ACRE
	SECTION 4	
	TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.	

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described. The right is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.

WITNESS the signature of the Water Resources Director, affixed this date DECEMBER 29, 1988.

/s/ WILLIAM H. YOUNG

Water Resources Director

Recorded in State Record of Water Right Certificates numbered 59067

64733.TS



## STATE OF OREGON

County of COOS

### PERMIT TO APPROPRIATE THE PUBLIC WATERS

This is to certify that I have examined APPLICATION 68371 and do hereby grant the same SUBJECT TO EXISTING RIGHTS INCLUDING THE APPROPRIATE MINIMUM FLOW POLICIES ESTABLISHED BY THE WATER POLICY REVIEW BOARD and the following limitations and conditions:

This permit is issued to Ronny O. Haga of Route 1, Box 2095, Bandon, Oregon, 97411, phone 347-2295, for the use of the waters of Johnson Creek, a tributary of Pacific Ocean,

for the PURPOSE of temperature control, flood harvesting of cranberries and irrigation of 8.25 acres, being 1.24 cubic feet per second for temperature control, 0.41 cfs for flood harvesting and 0.21 cfs for irrigation

that the PRIORITY OF THE RIGHT dates from June 6, 1985 for use on 7.85 acres  
April 9, 1986 for use on 0.25 acre

and is limited to the amount of water which can be applied to beneficial use and shall not exceed 1.24 cubic feet per second

The POINT OF DIVERSION is to be LOCATED: 1630 feet South and 110 feet East from the Northwest corner of SW 1/4 SW 1/4 Section 4, being within the NW 1/4 NW 1/4 Section 9, Township 29 South, Range 14 West, WM, in the County of Coos.

A description of the PLACE OF USE under the permit, and to which such right is appurtenant, is as follows:

Township 29 South, Range 14 West, WM Section 4 NW 1/4 SW 1/4 0.25 acre  
SW 1/4 SW 1/4 7.85 acres

If for irrigation, this appropriation shall be limited to 1/40 of one cubic foot per second of its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, for cranberries. If for the irrigation of any other crop, this appropriation shall be limited to 1/80 of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The permittee shall record and submit annually to the Water Resources Department all pertinent data pertaining to use of water for temperature control (frost control) on forms furnished.

Actual construction work shall begin on or before August 7, 1987, and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 19 88 .

Complete application of the water to the proposed use shall be made on or before October 1, 19 89 .

Witness my hand this 7th day of August, 19 86 .

/s/ WILLIAM H. YOUNG

WATER RESOURCES DIRECTOR

This permit, when issued, is for the beneficial use of water. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

APPLICATION 68371

PERMIT

49680

STATE OF OREGON

COUNTY OF Coos

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

RONNY O. HAGA  
ROUTE 1, BOX 2095  
BANDON, OREGON 97411

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-70197

SOURCE OF WATER: JOHNSON CREEK AND AN UNNAMED RESERVOIR, TO BE CONSTRUCTED UNDER APPLICATION R-70196, PERMIT R-11808, TRIBUTARIES OF PACIFIC OCEAN

PURPOSE OR USE: CRANBERRY OPERATIONS ON 10.0 ACRES

MAXIMUM FLOW/VOLUME ALLOWED: 0.5 CFS OF LIVE FLOW AND 9.0 AF OF STORED WATER

PERIOD OF USE: THE USE OF WATER FROM LIVE FLOW IS LIMITED TO THE PERIOD DECEMBER 1 THROUGH MARCH 31. STORED WATER FROM AN UNNAMED RESERVOIR MAY BE USED YEAR ROUND.

DATE OF PRIORITY: FEBRUARY 12, 1990

POINT OF DIVERSION LOCATION: NW 1/4 NW 1/4, SECTION 9, SE 1/4 SW 1/4, SECTION 4, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.; JOHNSON CREEK - 1630 FEET SOUTH & 110 FEET EAST, UNNAMED RESERVOIR - 780 FEET SOUTH & 1760 FEET EAST, BOTH FROM NORTHWEST CORNER, SW 1/4 SW 1/4, SECTION 4

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW 1/4 SW 1/4 2.0 ACRES  
SE 1/4 SW 1/4 8.0 ACRES  
SECTION 4

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

Application S-70197 Water Resources Department

PERMIT 52296

July 28, 1997

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WATER  
RESOURCES  
DEPARTMENT

---

Windhurst Road Water Corporation  
PO Box 503  
Bandon, OR 97411

Reference: Application S-69654

Gentlemen:

The Department is currently working to put together an Agreement and Stipulated Final Order for both Windhurst Road applications. In working through the applications a number of problems with application S-69654 have arisen.

Many of the proposed lands for application S-69654 have existing rights underlying them. That in itself is not a problem, however, in some cases the underlying rights do not resemble the application map for S-69654. This may be due to mapping errors, relocation of the bogs, or something else. It is most likely a combination of various reasons. Some of the concerns that arise from this are:

- 1) Is the old right valid? If it is not, any supplemental right allowed on top of the old right may not be valid.
- 2) How many acres truly overlie the existing rights? The way the maps overlie at this time it would be a "best guess" of the number of acres of primary and supplemental. If the acres identified as supplemental are found to actually be primary at the time of certification it may put that portion of the right in jeopardy.
- 3) How many acres truly are primary? Although this has not been a significant issue in the past, it would be best to clear up any potential issues that may arise from existing rights overlying rights that have been identified as primary under application S-69654.

The best solution is to make sure that all underlying rights are valid and to indicate which acres on the application map for application S-69654 are truly supplemental to existing rights and which are primary. Enclosed you will find copies of the existing water rights, both maps and certificates or permits. Please compare them closely with the application map for S-69654 and determine and indicate clearly on a map which lands are primary



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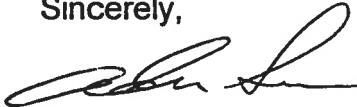
Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

and supplemental for which uses. This will help prevent unwanted surprises at the time of final proof inspection.

The Draft Agreement and Stipulated Final Order for application R-69708 and S-69654 will be sent out soon. Questions about S-69654 will need to be resolved prior to permit issuance.

If you have additional questions feel free to contact me at (503) 378-8455 ex. 262.

Sincerely,



Adam Sussman  
Program Analyst and  
Department Representative

cc: John Youngquist  
827 SE Mosher Ave.  
Roseburg, Oregon 97470

Watermaster, District 19

Reese Bender, ODFW  
P.O. Box 5430  
Charleston, Oregon 97420



August 13, 1997

John Youngquist  
827 SE Mosher Ave  
Roseburg, Oregon 97470

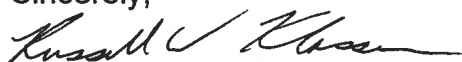
Dear Mr. Youngquist:

REFERENCE: File R-69708 and S-69654 (Windhurst Farms)

The Department indicated by letter, sent in July of this year, that there are some inconsistencies regarding the location and description of some of the acreage on the application map for the above reference files. I have enclosed a copy of the most recent application map, per your request, so that you can advise the Department regarding the proper description of the acreage, i.e. primary/supplemental.

I hope this will be helpful. Feel free to call me at (503) 378-8455 ext. 262 or 1 (800) 624-3199 if I can be of any more assistance in resolving this matter.

Sincerely,



for

Adam Sussman  
Program Analyst, Water Rights Section

cc: Windhurst Road Water Corporation  
PO Box 503  
Bandon, OR 97411



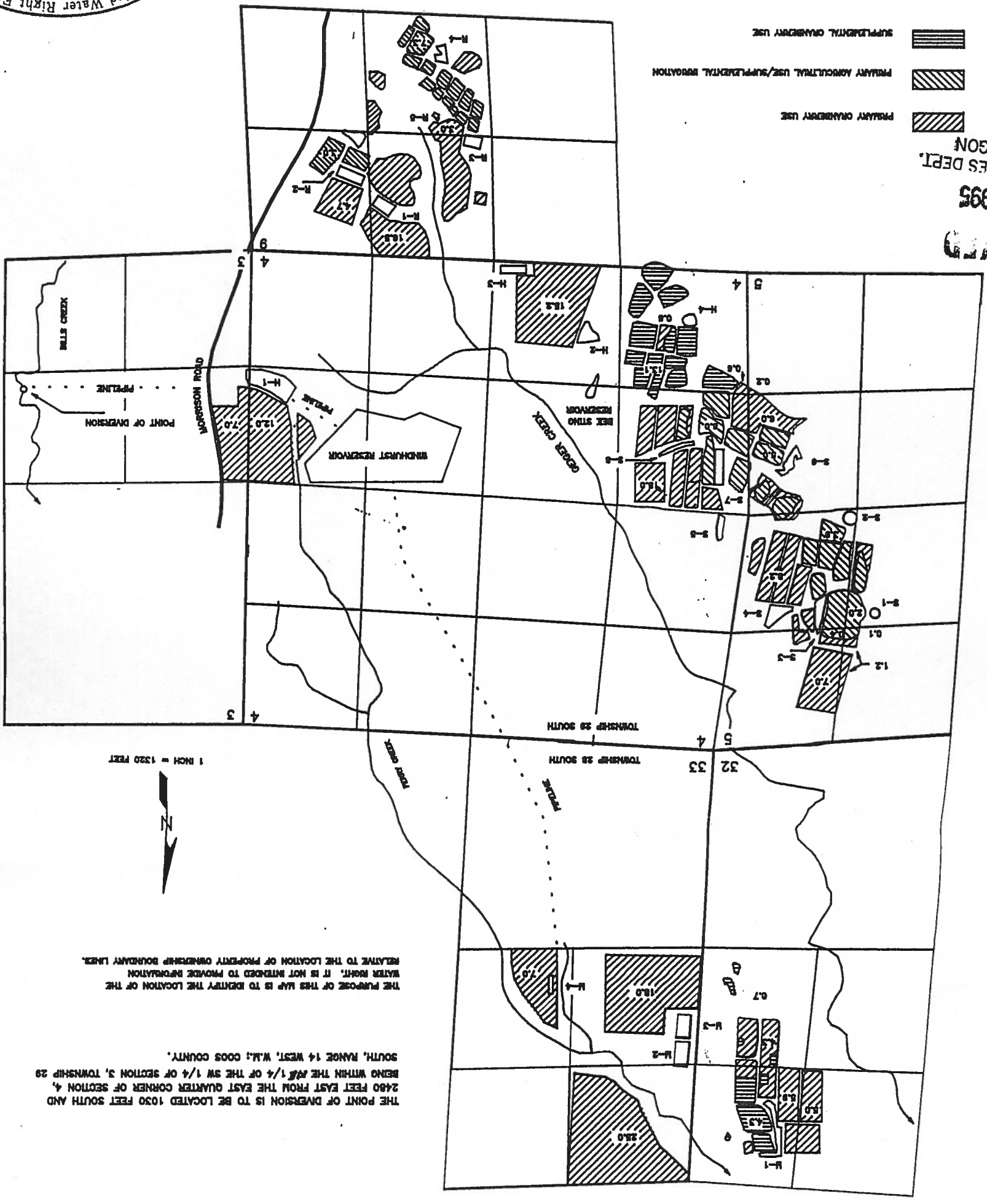
Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

APPLICATION MAP  
IN THE NAME OF  
WINDHURST ROAD SUB DISTRICT

SECTIONS 32 & 33, T 28 S, R 14 W, WM  
AND  
SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM

THE POINT OF DIVERSION IS TO BE LOCATED 1030 FEET SOUTH AND  
2480 FEET EAST FROM THE EAST QUARTER CORNER OF SECTION 4,  
BEING WITHIN THE SW 1/4 OF THE SW 1/4 OF SECTION 3, TOWNSHIP 29  
SOUTH, RANGE 14 WEST, W.M. COOS COUNTY.

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE  
WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION  
RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.



- PRIMARY CROSBERRY USE
- PRIMARY AGRICULTURAL USE/SUPPLEMENTAL IRRIGATION
- SUPPLEMENTAL CROSBERRY USE

RECEIVED  
OCT - 5 1995  
WATER RESOURCES DEPT.  
SALEM, OREGON



Oregon Water Resources Department  
Water Rights Division

Water Rights Application  
Number S-69654

**Proposed Final Order**

*Summary of Recommendation:* The Department recommends that the attached draft permit be issued with conditions.

*Additional Information:* The location of your points of diversion, for each reservoir, by reference to a recognized public land survey corner. The locations may be shown by distance and bearing or by coordinates (distance in feet north or south and distance in feet east or west from a recognized public land survey corner). Also, the addresses of all property owners in this application. We have not received this as of today, please forward this information.

*Application History*

On June 30, 1988, WINDHURST ROAD WATER CORPORATION submitted an application to the Department, and was amended on June 1, 1994, for the following water use permit:

- Amount of Water: 10.0 cubic feet per second and 614.0 acre-feet of stored water
- Use of Water: Cranberry Operations, Supplemental Cranberry Operations, and Agriculture use
- Source of Water: Bill Creek, tributary of Bear Creek, and legally stored water under application R-69708
- Area of Proposed Use: Coos County within

SECTIONS 32 & 33  
TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

SECTIONS 3, 4, 5, 9  
TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

- Water Delivery System: Water is pumped to Windhurst Reservoir then pumped to various reservoirs within subdistrict and then sprinklers distribute water.

On NOVEMBER 29, 1995, the Department mailed the applicant notice of its Initial Review, determining that 10.0 cfs is available from December 1 through April 30 and further limited to 9.5 cfs during the month of May, 2.5 cfs during the month of June, and 1.2 cfs during the month of July and year round use from stored water. The applicant did not notify the

Department to stop processing the application within 14 days of that date.

On DECEMBER 19, 1995, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

Within 30 days of the Department's public notice, written comments were received from Oregon Department of Fish and Wildlife and WaterWatch of Oregon.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

#### *Findings of Fact*

The South Coast Basin Program allows the following uses: Irrigation and Agriculture use for Cranberry Operations.

Files R-69708 and S-69654 have been held in contested case stage and now the applications have been amended and continuation of the permit process is being attempted.

Senior water rights exist on Bills Creek or on downstream waters but not on reservoirs.

Bill Creek and reservoirs are not within or above a State Scenic Waterway.

Water is available for further appropriation (at a 50 percent exceedance probability) for the period December 1 through April 30 and further limited to 9.5 cfs during the month of May, 2.5 cfs during the month of June, and 1.2 cfs during the month of July and year round use from stored water.

The Department finds that no more than 31.23.0 cfs and 614.0 acre-feet of stored water would be necessary for the proposed use. The amount of water requested, 10.0 cfs and 614.0 acre-feet of stored water, is allowable.

There is no evidence in the record of the presence of game fish at the described point of diversion.

An interagency team reviewed this proposed use for potential adverse impacts on declining fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

The period of use from natural flow has been limited to December 1 through April 30.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place and functional, and the fishway must be approved by Oregon Department of Fish and Wildlife before diversion of any water.

Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point. The totalizing flow meter must be installed and maintained as identified in OAR 690-507-645.

#### *Conclusions of Law*

Under the provisions of ORS 537.153, the Department must presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the South Coast Basin Plan.

No preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with rules of the Water Resources Commission.

The proposed use complies with the State Agency Agreement for land use.

For these reasons, the required presumption has been established.

Once the required presumption has been established, under the provisions of ORS 537.153(2) it may be overcome by a preponderance of evidence that either:



- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
  - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
  - (B) Specifically how the identified public interest would be impaired or detrimentally affected.

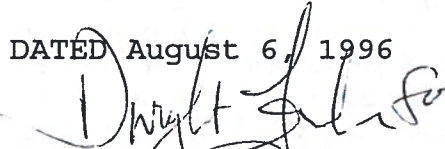
In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use will impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount necessary for the proposed use; the proposed use will not result in injury to existing water rights; and the proposed use will not impair or be detrimental to the public interest as provided in ORS 537.170.

#### Recommendation

The Department recommends that the attached draft permit be issued with conditions.

DATED August 6, 1996

  
Steven P. Applegate  
Administrator  
Water Rights Division

#### Protest Rights

Under the provisions of ORS 537.153(6) or 537.621(7), you have the right to submit a protest against this proposed final order. Your protest must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if



known; and

- If you are not the applicant, the \$200 protest fee required by ORS 536.050.
- If you are the applicant, a statement of whether or not you are requesting that a contested case hearing be held. If you do not request a hearing, the Department will presume that you do not wish for a hearing to be held.

Your protest must be received in the Water Resources Department no later than **September 20, 1996**.

After the protest period has ended, the Director will either issue a final order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and if

- upon review of the issues the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

GH

DRAFT

This is not a permit!!!

DRAFT

STATE OF OREGON

COUNTY OF Coos

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

WINDHURST ROAD WATERING CORPORATION  
P.O. BOX 503  
BANDON, OREGON 97411

(541) 347-3062

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-69654

SOURCE OF WATER: BILL CREEK, A TRIBUTARY OF BEAR CREEK, AND LEGALLY STORED WATER UNDER APPLICATION R-69708

PURPOSE OR USE: CRANBERRY OPERATIONS ON 162.4 ACRES, SUPPLEMENTAL CRANBERRY OPERATIONS ON 18.1 ACRES AND AGRICULTURE USE ON 27.7 ACRES

MAXIMUM RATE/VOLUME ALLOWED: 10.0 CUBIC FEET PER SECOND AND 614.0 ACRE- FEET OF STORED WATER

PERIOD OF USE: DECEMBER 1 THROUGH APRIL 30 FROM NATURAL FLOW AND YEAR ROUND FROM STORED WATER ONLY

DATE OF PRIORITY: JUNE 30, 1988

POINT OF DIVERSION LOCATION: NE 1/4 SW 1/4, SECTION 3, T29S, R14W, W.M.; 1030 FEET SOUTH & 2480 FEET EAST 1/4 CORNER, SECTION 4, .....

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	*1CRANBERRY	*2AGRICULTURE	*3SUPPLEMENTAL CRANBERRY
NE 1/4 NE 1/4	5.9 ACRES		4.3 ACRES
NW 1/4 NE 1/4	5.0 ACRES		
SE 1/4 NE 1/4	4.3 ACRES		0.7 ACRE
SECTION 32			

NW 1/4 NW 1/4	25.0 ACRES
SW 1/4 NW 1/4	18.0 ACRES
SE 1/4 NW 1/4	7.0 ACRES
SECTION 33	

TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M.

Application S-69654 Water Resources Department

PERMIT DRAFT

NW 1/4 SW 1/4 7.0 ACRES  
SECTION 3

NW 1/4 SW 1/4	15.0 ACRES	6.0 ACRES	
SW 1/4 SW 1/4	1.2 ACRES		13.1 ACRES
SE 1/4 SW 1/4	15.2 ACRES		
NE 1/4 SE 1/4	12.0 ACRES		

SECTION 4

NE 1/4 NE 1/4	7.0 ACRES	0.4 ACRE
NW 1/4 NE 1/4	1.2 ACRES	0.1 ACRE
SW 1/4 NE 1/4		2.0 ACRES
SE 1/4 NE 1/4	8.2 ACRES	3.9 ACRES
NE 1/4 SE 1/4	6.0 ACRES	5.0 ACRES
SE 1/4 SE 1/4	0.2 ACRE	

SECTION 5

NE 1/4 NE 1/4	4.7 ACRES	3.0 ACRES
NW 1/4 NE 1/4	16.5 ACRES	
SW 1/4 NE 1/4	3.0 ACRES	7.3 ACRES

SECTION 9

TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.

\*1 - Use of water is for primary irrigation and agriculture use for Cranberry Operations.

\*2 - Use of water is for primary agriculture use and supplemental Irrigation use for Cranberry Operations.

\*3 - Use of water is for supplemental agriculture use and irrigation use for Cranberry Operations.

Measurement, recording and reporting conditions:

A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place and functional, and the fishway must be approved by Oregon Department of Fish and Wildlife before diversion of any water.

Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point. The totalizing flow meter must be installed and maintained as identified in OAR 690-507-645.

The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, ONE-FORTIETH of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

#### STANDARD CONDITIONS

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete

Application S-69654

application of the water to the use shall be made on or before October 1, 1999.

Issued \_\_\_\_\_, 199\_

**DRAFT - THIS IS NOT A PERMIT**

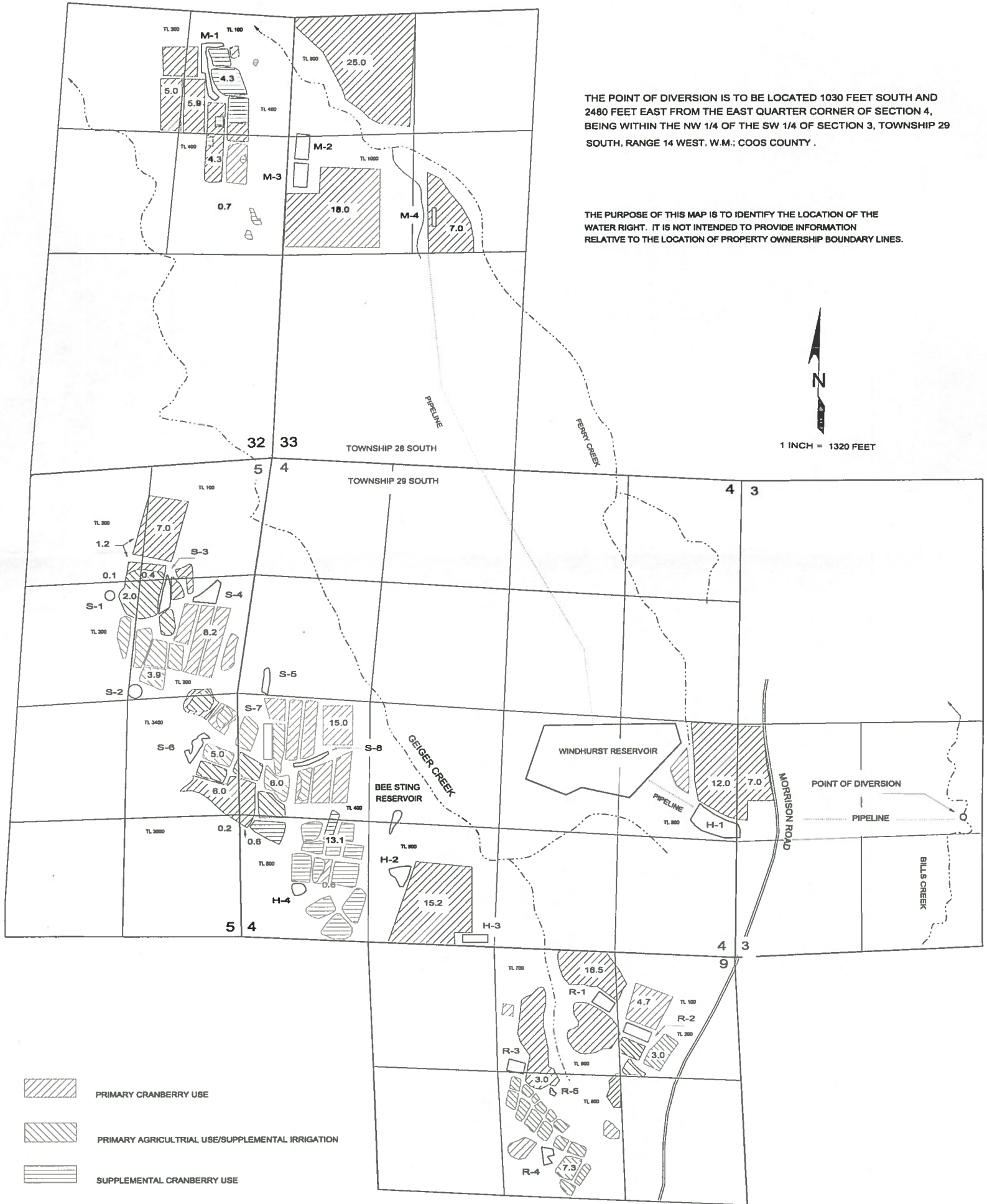
Water Resources Department  
Director

Application S-69654    Water Resources Department  
Basin 17                Volume 3 BEAR CREEK AND MISC.  
GH                        MGMT.CODE

PERMIT DRAFT  
District 19

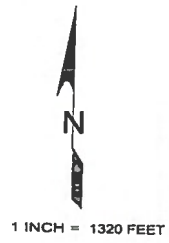
AMMENDED APPLICATION MAP  
 IN THE NAME OF  
 WINDHURST ROAD SUB DISTRICT

SECTIONS 32 & 33, T 28 S, R 14 W, WM  
 AND  
 SECTIONS 3, 4, 5 & 9, T 29 S, R 14 W, WM



THE POINT OF DIVERSION IS TO BE LOCATED 1030 FEET SOUTH AND 2480 FEET EAST FROM THE EAST QUARTER CORNER OF SECTION 4, BEING WITHIN THE NW 1/4 OF THE SW 1/4 OF SECTION 3, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M.; COOS COUNTY.

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.



RECEIVED  
 SEP 18 2000  
 WATER RESOURCES DEPT.  
 SALEM, OREGON



**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT

827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (541) 672-5692

PROJECT MANAGEMENT

PERMITS/LICENSING

RESEARCH

PLANNING

October 11, 1996

Adam Sussman, Program Analyst  
Oregon Water Resources Department  
158 12th Avenue, N.E.  
Salem, Oregon 97310

Re: File No. R-69708 & S-69654  
In the Name of Windhurst Road Sub District


Dear Mr. Sussman:

On behalf of the Windhurst Road Sub District, I request the files noted above be placed on "administrative hold" for a short period of time. As noted in our protest to the Proposed Final Order, agreement has been reached with the Oregon Department of Fish and Wildlife on the particulars of diverting water from Bill Creek for off channel storage. To date, the ODFW has not responded to our proposed Memorandum of Understanding nor has the ODFW contacted Weisha Mize to inform her of our agreement.

We believe these files have been resolved, however, the details need to be cleared with all parties concerned. We would appreciate the Department placing these files on hold until all the paperwork is complete.

Please contact me if you have any questions.

Yours truly,

  
M. John Youngquist

cc: Windhurst Road Sub District

*Please put these  
2 files on "hold"  
for 2 months +  
send the Dwight  
letters please!  
to return.  
Thanks,  
A.S.*

**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT

827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (541) 672-5692

**RECEIVED**

**OCT 15 1996**

**WATER RESOURCES DEPT.**  
**SALEM, OREGON**

PROJECT MANAGEMENT

PERMITS/LICENSING

RESEARCH

PLANNING

October 11, 1996

Adam Sussman, Program Analyst  
Oregon Water Resources Department  
158 12th Avenue, N.E.  
Salem, Oregon 97310

Re: File No. R-69708 & S-69654  
In the Name of Windhurst Road Sub District

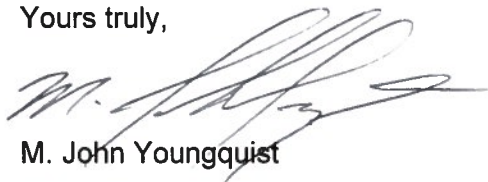
Dear Mr. Sussman:

On behalf of the Windhurst Road Sub District, I request the files noted above be placed on "administrative hold" for a short period of time. As noted in our protest to the Proposed Final Order, agreement has been reached with the Oregon Department of Fish and Wildlife on the particulars of diverting water from Bill Creek for off channel storage. To date, the ODFW has not responded to our proposed Memorandum of Understanding nor has the ODFW contacted Weisha Mize to inform her of our agreement.

We believe these files have been resolved, however, the details need to be cleared with all parties concerned. We would appreciate the Department placing these files on hold until all the paperwork is complete.

Please contact me if you have any questions.

Yours truly,



M. John Youngquist

cc: Windhurst Road Sub District

Dwight W French, 03:29 PM 8/20/96 , R-69708 and S-69654

Date: Tue, 20 Aug 1996 15:29:55 -0700 (PDT)  
X-Sender: frenchdw@mailhub.wrd.state.or.us  
To: Adam.P.SUSSMAN@wrд.state.or.us  
From: Dwight W French <Dwight.W.FRENCH@wrд.state.or.us>  
Subject: R-69708 and S-69654

Adam,  
I think that you can handle this.  
Dwight

>Date: Tue, 20 Aug 1996 14:07:12 -0700  
>X-Sender: liverman@eagle.dfw.state.or.us  
>To: FRENCH Dwight W <Dwight.W.FRENCH@state.or.us>  
>From: LIVERMAN Marc <Marc.LIVERMAN@state.or.us> (Marc Liverman)  
>Subject: R-69708 and S-69654  
>Cc: BURCHFIELD Stephanie <Stephanie.BURCHFIELD@state.or.us>  
>  
>Dwight:  
>  
>I'm writing concerning PFO's issued for water rights applications  
R-69708  
>and S-69654. As you may know, these applications are currently the  
>subject of a contested case and ODFW is in a dispute resolution  
process  
>with the applicant. Please cease processing these applications so  
that they  
>can be modified to reflect the final outcome of our negotiation.  
>  
>The applicant in both cases is Windhurst Road Water Corp. These  
>applications are in our Charleston District and have been reviewed  
for ODFW  
>by Reese Bender, our local assistant DB. Reese believed that these  
>applications had been pulled from triage pending resolution of the  
contested  
>case. At this point, the ALJ (Weisha Mize) is pushing hard for  
closure and  
>we have counsel working with the applicant to finalize our agreement  
in a MOU.  
>  
>Our primary concern with the PFOs is that they are based on a  
quantity of 10  
>c.f.s. of water. John Youngquist is representing the applicant. In  
a  
>letter to the ALJ dated Oct. 25, 1995, John stated that the  
applicant only  
>anticipates pumping 2.75 c.f.s. This is the number that we hope to  
include  
>in the MOU.  
>  
>Please let me know ASAP how you will proceed on this. Thanks!  
>  
>Marc  
>

>  
>

=====  
Dwight French  
Water Right Section Manager  
Oregon Water Resources Department  
1 800 624 3199 ext. 268  
=====

Date: Tue, 20 Aug 1996 15:31:05 -0700 (PDT)  
X-Sender: frenchdw@mailhub.wrd.state.or.us  
To: LIVERMAN Marc <Marc.LIVERMAN@state.or.us> (Marc Liverman)  
From: Dwight W French <Dwight.W.FRENCH@wrđ.state.or.us>  
Subject: Re: R-69708 and S-69654  
Cc: Adam.P.SUSSMAN@wrđ.state.or.us

Thanks for your message. I have asked Adam Sussman to handle this.  
(I'll  
be out of the office until next Tuesday.)  
Dwight

At 02:07 PM 8/20/96 -0700, you wrote:

>Dwight:

>  
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>and S-69654. As you may know, these applications are currently the  
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>Marc  
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>  
>

=====  
Dwight French  
Water Right Section Manager  
Oregon Water Resources Department  
1 800 624 3199 ext. 268  
=====



Protest by Fax  
entered 9/18/96. I think  
you have file.

Gauke

RECEIVED

SEP 20 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

PROTEST TO A PROPOSED FINAL ORDER

Application Number: R-69708 & S-69654

Applicant's Name: Windhurst Road Sub District  
Formally Windhurst Road Water Corporation

Name, address and telephone number of protestant:

M. John Youngquist  
827 SE Mosher Ave.  
Roseburg, Oregon 97470

Phone/Fax: (541) 672 - 5692

on behalf of:  
Windhurst Road Sub District  
P. O. Box 503  
Bandon, Oregon 97411

Phone: (541) 347 - 3062

Interest in the proposed final orders:

This protest is on behalf of and at the request of the directors of the Sub District affected by the proposed final order.

Describe how the proposed final orders will be detrimental to the applicant's interest:

1. These files have been under contested case status for several years. The original application was for construction of a dam in the channel of Bill Creek. The in-channel reservoir was objected to by the Oregon Department of Fish and Wildlife (ODFW) and the Sub District moved the reservoir(s) off channel.

The proposed final orders (PFOs) do not recognize the negotiations and agreements the Sub District has with ODFW.

2. The PFOs do not address the agreement between ODFW and the Sub District. The following language should be included in both permits:

"A memorandum of understanding between the Oregon Department of Fish and Wildlife and the Windhurst Road Sub District with conditions appertaining to the use of water from Bill Creek will be approved by the ODFW before diversion of water may occur."

3. The memorandum of understanding will address "by pass" flows for this project, period of allowed pumping for storage and amount of water to be pumped. The Sub District will pump less than 3.0 cfs instead of the 10 cfs noted on the PFOs and will have adequate fish screening at the diversion to protect the resource.

Fish passage will not be necessary because the only obstruction in Bill Creek will be construction of a weir to measure by pass flows. The weir will be constructed in such a manner not to impede the passage of fish.

The allowed period of use (pumping to storage) will occur from November - May 31 each year.

4. The height of dam and amount of water impounded in the Windhurst Reservoir requires that engineered plans and specifications are needed for the structure. Mr. John Falk and Mr. Barry Norris from the Department have made their required initial inspection of the site.

How the Proposed Final Order may be corrected:


1. Insert the language referring to the memorandum of understanding between ODFW and the Sub District.
2. Change the period of use from November - April 30 each year to November - May 31 each year.
3. Reduce the amount of appropriation from 10 cfs to 3 cfs, or less.
4. Modify the language referring to fish passage to allow a waiver for passage if the weir to be constructed does not impede the fish passage.
5. Inform Weisha Mize of the status of these applications.
6. Note that engineered plans and specifications are required.

Cite any legal authority supporting the protest:

None cited.

Contest Case Hearing:

The Sub District and ODFW have been attempting to resolve these files without having a contested case hearing. It would be acceptable to have a meeting in Salem between Stephanie Birchfield, Reese Bender, Adam Sussman and the Sub District to resolve the issues.

  
M. John Youngquist

9-18-96  
Date

cc: Windhurst Road Sub District  
Al Cook, Regional Manager

**RECEIVED**  
SEP 20 1996  
WATER RESOURCES DEPT.  
SALEM, OREGON

**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT

827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (541) 672-5692

PROJECT MANAGEMENT

PERMITS/LICENSING

RESEARCH

PLANNING

September 18, 1996

Mr. Dwight French  
Oregon Water Resources Department  
158 12<sup>th</sup> Street, N.E.  
Salem, Oregon 97310

Re: File No. R-69708

Dear Mr. French:

Enclosed find a supplemental sheet to accompany the application map describing each reservoir by coordinates from a recognized corner and a protest to the proposed final order.

In addition, you requested the names and addresses of affected property owners associated with this application. The names and addresses of property owners not associated with the applicants is noted under the remarks section of each reservoir application. I assume that the request is for the names and addresses of the participants within the sub district. We did not realize that the Department desired to have each sub district member's address at the time of filing. Their addresses are:

Ronny & Gloria Haga  
Route 1, Box 2095  
Bandon, Oregon 97411  
Phone: 541-347-2295

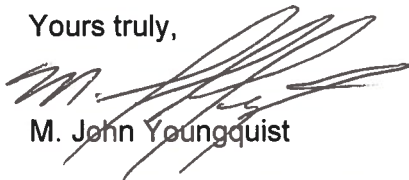
Bruce L. Manicke  
P. O. Box 584  
Bandon, Oregon 97411  
Phone: 541-347-2622

David F. Richert  
Box 86  
Bandon, Oregon 97411  
  
Phone: 541-347-2710

Wayne R. Scherer  
Bonnie L. Scherer  
P. O. Box 503  
Bandon, Oregon 97411  
Phone: 541-347-3062

Please contact me if additional information is needed.

Yours truly,



M. John Youngquist

cc: Windhurst Road Sub District

**RECEIVED**  
SEP 20 1996  
WATER RESOURCES DEPT.  
SALEM, OREGON

WINDHURST ROAD SUB DISTRICT  
 SUPPLEMENTAL SHEET to APPLICATION MAP  
 RESERVOIR LOCATIONS

RESERVOIR	N/S	E/W	¼ ¼	SECTION
WINDHURST RESERVOIR	3200 FEET SOUTH	3610 FEET EAST	NW¼SE¼	4
BEE STING	3920 FEET SOUTH	1390 FEET EAST	NE¼SW¼	4

BOTH FROM THE NORTHWEST CORNER OF SECTION 4 AND WITHIN SECTION 4, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY.

Note: The Windhurst Reservoir is located to the center of the reservoir because there is a dike around the whole reservoir.

MANICKE:

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ALL FROM THE SOUTHEAST CORNER OF SECTION 32, WITHIN SECTIONS 32 & 33, TOWNSHIP 28 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY

HAGA:

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WATER RESOURCES DEPT.  
 SALEM, OREGON  
 SEP 20 1996

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RECEIVED  
 SEP 20 1996  
 WATER RESOURCES DEPT  
 SALEM, OREGON

SCHERER:

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ALL FROM THE NORTHEAST CORNER OF SECTION 9, WITHIN SECTION 9, TOWNSHIP 29 SOUTH, RANGE 14 WEST, W.M., COOS COUNTY.



Application # S - 69654

Permit # S-53703

**Public Notice Route Slip ... New Application Extension of Time**  
per Division 315 Rules... (Extensions received on July 1, 2001 or after)

◆ **WRIG...**

Money Received on: 9-22-14

◆ **Extension Specialist...**

Added to tracking spreadsheet

**After fee is receipted and app is added to spreadsheet, route to...**

◆ **Codi Holmes...**

Publish on Public Notice (initial 30-day comment): Date of notice 10/7/14

Update WRIS Database

In the "PNotice Date" field... Enter the date the Extension Application was published on the Public Notice.

In the "Ext Filed" field... Enter the date the Extension Application was received.

Yes or  No: Return file to Extension Specialist after PN Machelle

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A  
 SALEM, OR 97301-4172  
 (503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **113493**

INVOICE # **R-69708**

RECEIVED FROM: **Bandon Cranberry**  
 BY: **Water Control District**

APPLICATION	<b>S-69654</b>
PERMIT	
TRANSFER	

CASH:  CHECK.# **1391** OTHER: (IDENTIFY)

TOTAL REC'D \$ **1150.00**

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES	\$
OTHER: (IDENTIFY)	\$
0243 I/S Lease	
0244 Muni Water Mgmt. Plan	
0245 Cons. Water	

**4270 WRD OPERATING ACCT**

<b>MISCELLANEOUS</b>			
0407 COPY & TAPE FEES			\$
0410 RESEARCH FEES			\$
0408 MISC REVENUE: (IDENTIFY)			\$
TC162 DEPOSIT LIAB. (IDENTIFY)			\$
0240 EXTENSION OF TIME	<b>2 @ \$575.00</b>		\$ <b>1150.00</b>
<b>WATER RIGHTS:</b>			
0201 SURFACE WATER	EXAM FEE	0202	RECORD FEE
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$		
<b>WELL CONSTRUCTION</b>			
0218 WELL DRILL CONSTRUCTOR	EXAM FEE	0219	LICENSE FEE
LANDOWNER'S PERMIT	\$	0220	\$
OTHER (IDENTIFY)			

**0536 TREASURY 0437 WELL CONST. START FEE**

0211 WELL CONST START FEE	\$	CARD #	
0210 MONITORING WELLS	\$	CARD #	
OTHER (IDENTIFY)			

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

0233 POWER LICENSE FEE (FW/WRD)		\$
0231 HYDRO LICENSE FEE (FW/WRD)		\$
HYDRO APPLICATION		\$

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE \_\_\_\_\_  
 OBJ. CODE \_\_\_\_\_ VENDOR # \_\_\_\_\_  
 DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **113493** DATED: **9/22/14** BY: **Emmitt Ross**

Application S-69654

COPY CHECK-OFF SHEET FOR PROPOSED FINAL ORDERS

CC: FILE # S-69654

WATERMASTER # 19

REGIONAL MANAGER: SOUTHWEST

ODF&W - Coos County

CWRE (if agent): JAMES F GOSSON #054

DEQ

OTHER STATE AGENCY IF NECESSARY:

DIVISION 33 LIST: COLUMBIA RIVER INTERTRIBAL FISH COMMISSION; U.S. FISH & WILDLIFE;  
(CHECK ONLY IF APPLICABLE) NORTHWEST POWER PLANNING COUNCIL & NATIONAL MARINE FISHERIES

POWER BUILDER UPDATER; FRONT COUNTER

OTHER ADDRESSES OF PEOPLE WHO PAID THE \$10 FEE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PEOPLE WITH OBJECTIONS, COMMENTS OR REQUESTED COPY W/O \$10 (SEND THE \$10 LETTER):

COOS COUNTY HIGHWAY DEPARTMENT	COOS COUNTY COURTHOUSE ANNEX	COQUILLE, OR.	97423
LOWELL AND MARY MEYER	P.O. BOX 582	BANDON, OR.	97411
ROGGE FOREST PRODUCTS		BANDON, OR.	97411
CITY OF BANDON	CITY HALL	BANDON, OR.	97411

CASEWORKER : GH

R

**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT

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ROSEBURG, OREGON 97470  
PHONE/FAX: (541) 672-5692

PROJECT MANAGEMENT

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Oregon Water Resources Department  
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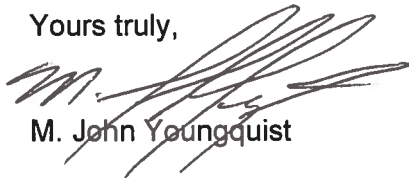
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cc: Windhurst Road Sub District

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SALEM, OREGON

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WATER RESOURCES DEPT.  
 SALEM, OREGON

SEP 20 1996

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Application S-69654

COPY CHECK-OFF SHEET FOR PROPOSED FINAL ORDERS

CC: FILE # S-69654

WATERMASTER # 19

REGIONAL MANAGER: SOUTHWEST

ODF&W - Coos County:

CWRE (if agent): JAMES F GOSSON #054

DEQ

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DIVISION 33 LIST: COLUMBIA RIVER INTERTRIBAL FISH COMMISSION; U.S. FISH & WILDLIFE;  
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ROGGE FOREST PRODUCTS BANDON, OR. 97411  
CITY OF BANDON CITY HALL BANDON, OR. 97411

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CASEWORKER : GH

R

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address
2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

WINDHURST ROAD WATER CORPORATION  
 PO BOX 503  
 BANDON OR 97411

4a. Article Number  
 P56316

4b. Service Type

Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery  
 08-08-96

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)  
 X Wayne Scherer.

PS Form 3811, December 1994 R-697084 569654 Domestic Return Receipt

Thank you for using Return Receipt Service.

**CERTIFIED MAIL**  
**Return Receipt Requested**

WATER  
RESOURCES  
DEPARTMENT

August 6, 1996

WINDHURST ROAD WATER CORPORATION  
PO BOX 503  
BANDON, OR. 97411

RE: Application File # R-69708 & S-69654

Dear Applicant:

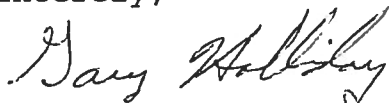
On **AUGUST 6, 1996**, a Proposed Final Order was sent from the Department requesting additional information necessary to complete your application for water use. As of today, these items have not been received:

- ▶ The addresses of all property owners in this application. We have not received this as of today, please forward this information.
- ▶ The location of your points of diversion, for each reservoir, by reference to a recognized public land survey corner. The locations may be shown by distance and bearing or by coordinates (distance in feet north or south and distance in feet east or west from a recognized public land survey corner).

Please submit these items by **SEPTEMBER 20, 1996**. If we do not receive the items requested above by this time, we may reject your application consistent with ORS 537.153. If your application is rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

Should you have any questions regarding your application or the required materials listed above, or if you need to request an extension of time, please call me personally at 1-800-624-3199, extension 454.

Sincerely,



Gary Holliday  
Water Right Specialist



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

RECEIVED

JUN 30 1988

WATER RESOURCES DEPT.  
SALEM, OREGON

RECEIVED

JUN - 1 1994

WATER RESOURCES DEPT.  
SALEM, OREGON

Application No. 69654  
Permit No.

CONTROL SUPPL.	FLOOD HARVEST					TOTAL ACREAGE	IRRIGATION:	
	Q	NEW	Q	SUPPL.	Q		NEW	CFS
0.00	0.00	0.30	0.02	0.00	0.00	0.30		
0.00	0.00	6.00	0.30	0.00	0.00	6.00		
0.00	0.00	17.00	0.85	0.00	0.00	17.00	1.00	0.01
0.00	0.00	23.30	1.17	0.00	0.00	23.30		
0.00	0.00	0.40	0.02	0.00	0.00	0.40		
0.00	0.00	1.40	0.07	0.00	0.00	1.40		
0.00	0.00	2.00	0.10	0.00	0.00	2.00	1.00	0.01
0.00	0.00	16.60	0.83	0.00	0.00	16.60		
0.00	0.00	20.40	1.02	0.00	0.00	20.40		
0.00	0.00	3.00	0.15	0.00	0.00	3.00		
0.25	0.04	0.00	0.00	0.25	0.01	0.25		
13.10	1.96	2.00	0.10	13.10	0.66	15.10	1.00	0.01
0.80	0.12	0.20	0.01	0.80	0.04	1.00		
0.00	0.00	5.00	0.25	0.00	0.00	5.00		
14.15	2.12	10.20	0.51	14.15	0.71	24.35		
0.00	0.00	5.00	0.25	0.00	0.00	5.00		
0.00	0.00	5.50	0.28	0.00	0.00	5.50		
0.00	0.00	9.80	0.49	0.00	0.00	9.80	1.00	0.01
0.00	0.00	20.30	1.02	0.00	0.00	20.30		
13.00	1.95	0.00	0.00	13.00	0.65	13.00		
5.00	0.75	0.00	0.00	5.00	0.25	5.00		
18.00	2.70	0.00	0.00	18.00	0.90	18.00		
2.80	0.42	10.00	0.50	2.80	0.14	12.80	1.00	0.01
2.20	0.33	20.00	1.00	2.20	0.11	22.20		
5.00	0.75	30.00	1.50	5.00	0.25	35.00		

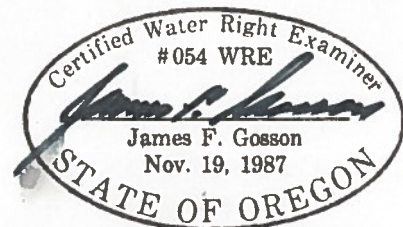
USES TOTALS\*\*\*\*\*

REGULAR IRRIGATION  
TOTALS:  
5.00 0.05

37.15 5.57 104.20 5.21 37.15 1.86 141.35

104.20	TOTAL FLOOD HARVEST ACREAGE:	104.20
15.63	TOTAL PRIMARY F.H. CFS:	45.00
37.15	TOTAL SUPPL. F. H. ACREAGE:	37.15
5.57	TOTAL SUPPL. F.H. CFS:	1.86

fs, being 10 cfs for flood harvest, 21.20cfs for temperature control, 1.53 cfs for cranberry irrigation, and 0.05 cfs for irrigation.



Fish District: Coos/Coquille

WAB # \_\_\_\_\_

Application # S-69654

Applicant Name Windhurst Road Water

Date: March 27, 1996

AREA

Source Watershed

Senior instream water right application to junior out-of-stream application

No water availability information

INFORMATION/CONDITIONS

1. Are there water quality concerns related to salmon/steelhead/trout? Y  N  
 Should the application be denied? Y N  
 Should the application be restricted? Y N

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec

2. Are there adequate flows to protect salmon/steelhead/trout? Y  N  
 Should the application be denied? Y  N  
 Should the application be restricted?  Y N  Based on water availability

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec
				X								X	

3. Domestic  
 Should domestic use be conditioned to human consumption? Y N  Based on water availability

4. Fish Screening and Passage  
 A. Requires fish screening and passage, with ODFW certification (applications > 0.5 cfs).  
 B. Requires fish screening and passage, without ODFW certification (applications < 0.5 cfs).  
 C. No dam or obstruction without a fishway.  
 M. Screening may be required

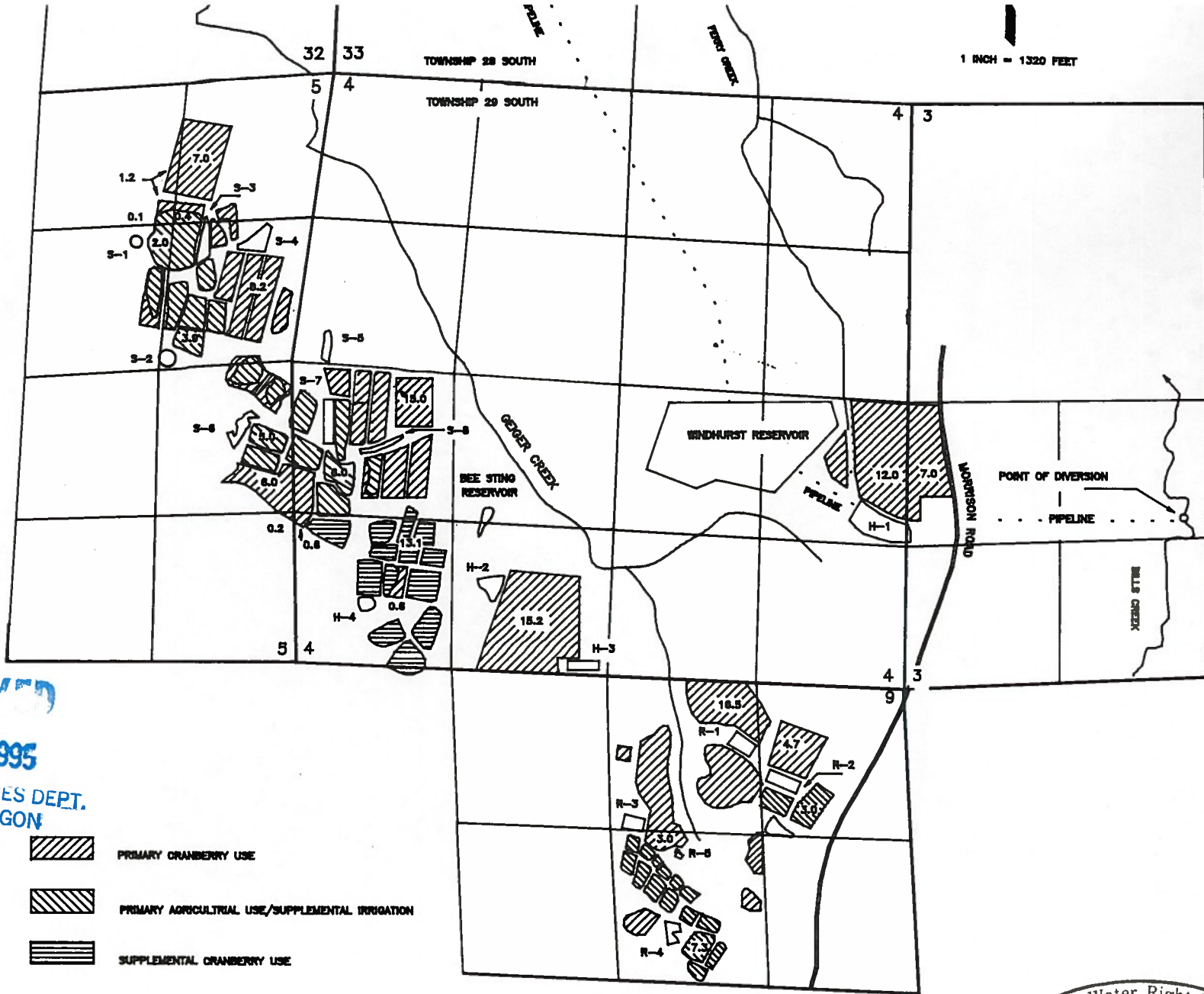
5. Miscellaneous  
 A. Reservoir Filling \_\_\_\_\_  
 B. Water Quality Permits \_\_\_\_\_  
 C. Return Flow \_\_\_\_\_  
 D. Time Limited Water Right \_\_\_\_\_  
 E. Other \_\_\_\_\_

6. Measurement and Reporting  
 A. Small diversions (<0.1 cfs or <9.2 ac/ft. may/may)  
 B. Medium diversions (0.1 cfs or >9.2 and <1.5 cfs or <100 ac/ft. shall/may)  
 C. Large diversions (1.5 cfs or >100 ac/ft. shall/shall)  
 T. Totalizing

FINDINGS

- Permit is proposed for denial prior to interagency team review for fishery concerns.  
 Deny permit due to fishery concerns, except for  
 A. Domestic (which may be limited to human consumption, see above)  
 B. Livestock  
 C. Unless water is from storage  
 Do not condition further due to fishery concerns.  
 Condition permit due to fishery concerns listed above.








1 INCH = 1320 FEET

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OCT - 5 1995

WATER RESOURCES DEPT.  
SALEM, OREGON

-  PRIMARY CRANBERRY USE
-  PRIMARY AGRICULTURAL USE/SUPPLEMENTAL IRRIGATION
-  SUPPLEMENTAL CRANBERRY USE

Application No. *69654*  
 Permit No. *53703*

Certified Water Right Examiner  
 #054 WRE  
*James F. Gosson*  
 James F. Gosson  
 Nov. 19, 1987  
 STATE OF OREGON



TOWNSHIP 29S RANGE 14W W.M. CARD 1 SECTION 5

NE				NW				SW				SE				APPLI- CATION NUMBER	PERMIT NUMBER	CERTIFI- CATE NUMBER						
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE									
Lot 1 Lot 2				Lot 3 Lot 4				TOTAL ACREAGE IN SUBDIVISION AS SHOWN ON GOVERNMENT PLAT																
3842 3825				3807 3790																				
																				34		18237	13898	13795
																				2		20090	15653	20929
04 01 22 36																						20179	15722	26279
<del>300 315 230 300</del>																						20789	16269	<b>CANCELLED</b>
34 375 23 455				Forest Crawling 5E				Forest Crawling 3E														43000	32995	48119
																				52		SUPPL 69654		
T.C. F.H. 12				T.C. F.H. 13																		69654		
T.C. F.H. 12				T.C. F.H. 13																		R-72130		
																						72131		
																						RES. R-71773		
																						RES. R-43421	R-4984	39529
																				0E		73931		

(SEE BACK OF CARD FOR PLAT OF SECTION)

RES R-73932

TOWNSHIP 29S RANGE 14W W.M. CARD 1 SECTION 9

NE				NW				SW				SE				APPLI- CATION NUMBER	PERMIT NUMBER	CERTIFI- CATE NUMBER						
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE									
TOTAL ACREAGE IN SUBDIVISION AS SHOWN ON GOVERNMENT PLAT																								
				52				04										23022	18143	23007				
				<del>779</del>														35031	27437	36624				
				53														41401	30926	36502				
08				63				14										42825	32008	36503				
				28														41401	30926	36502				
				57				01										16863	35039	39525				
32				22														59907	45731					
Harvest Stump 0E				Harvest Stump 12E				Harvest Stump 12E				Harvest Stump 12E						59907	45731					
												Don't 4E						65471	47958	<b>CANCELLED</b>				
32				73														SUPPL 69654						
T.C. F.H. 5E				T.C. F.H. 2E														69654						
																						RES. R-69927	R-11466	

(SEE BACK OF CARD FOR PLAT OF SECTION)

NE				NW				SW				SE				APPLI- CATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER	
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT. IF OTHER THAN 40 ACRES																			
								92										69928	57486
				T.C. F.H.															

TOWNSHIP 285 RANGE 14 W W. M. #1 SECTION 32

NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
																13945	10038	CANCELLED
						1.5										22399	17656	CANCELLED
						4.9										22415	17668	21653
						5.1										22434	17807	CANCELLED
						4.5										23631	18645	21685
						Municipal										34672	27232	9
						Municipal										34673	27233	9
		2.8														42775	31857	48118
		TC FH 2.8				TC FH 4.5										64533	47286	
		TC FH 10.2														suppl. 69654		
																69654		
						RES CAN										R.70050	R.11227	
						TC FH 8.1										70051	50975	

TOWNSHIP 285 RANGE 14 W W. M. #2 SECTION 32

NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT. IF OTHER THAN 40 ACRES																		
																70160	5119	CANCELLED
	11.2															6-12422		

TOWNSHIP 285 RANGE 14 W W. M. SECTION 33

NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
																14396	10424	11236
																20779	16260	21431
																21552	16898	21890
																42775	31857	48118
																58677	44582	55654
																suppl. 69654		
																T.6163 (C2143)		
																G.11867	6-11259	2
																20779	16260	65484



TOWNSHIP 29S RANGE 14W W. M. SECTION 3

NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT. IF OTHER THAN 40 ACRES																		
																69654	R-69708	

TOWNSHIP 29S RANGE 14W W. M. CARD #1 SECTION 4

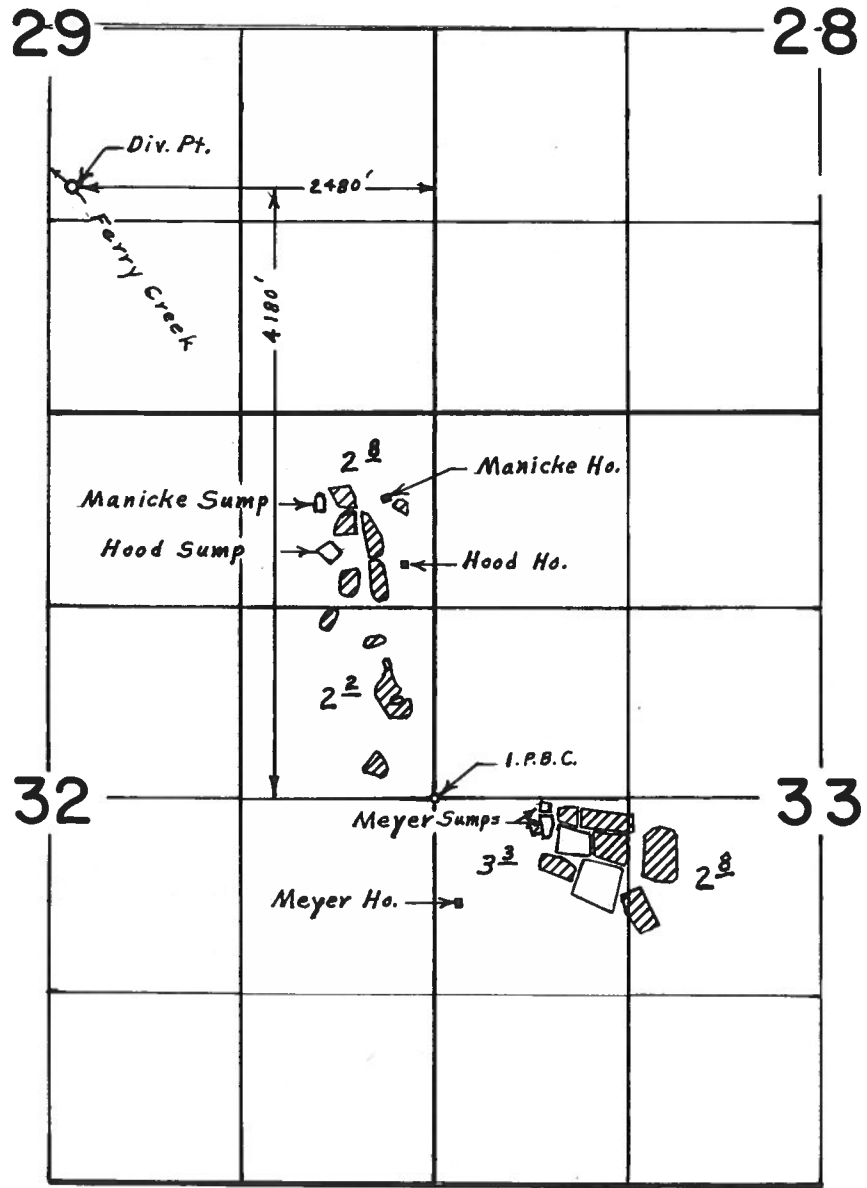
NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
LOT 1	LOT 2	LOT 3	LOT 4	LOT 1	LOT 2	LOT 3	LOT 4	LOT 1	LOT 2	LOT 3	LOT 4	LOT 1	LOT 2	LOT 3	LOT 4			
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT IF OTHER THAN 40 ACRES																		
3982	3945	3908	3871													14782	10728	11113
																5017	R-368	
																4982	3011	
																18237	13898	13795
																20090	15653	20828
																30253	23842	CANCELLED
																31234	24615	35720
																42825	32008	36503
																55207	41467	59066
																59907	45731	
																64733	47504	59067
																68371	49680	

TC = Temperature Control (SEE BACK OF CARD FOR PLAT OF SECTION) FH = Flood Harvesting

TOWNSHIP 29S RANGE 14W W. M. CARD #2 SECTION 4

NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT. IF OTHER THAN 40 ACRES																		
																SUPPL- 69654		
																69654		
																R-70196		
																70197		

T.28S. R.14W. W.M.



**FINAL PROOF SURVEY**  
UNDER

Application No. 42775 Permit No. 31857  
IN NAME OF

*Lowell Meyer et.al.*

Surveyed Aug. 27, 1976, by L. E. Gould.

up of New Point of Diversion

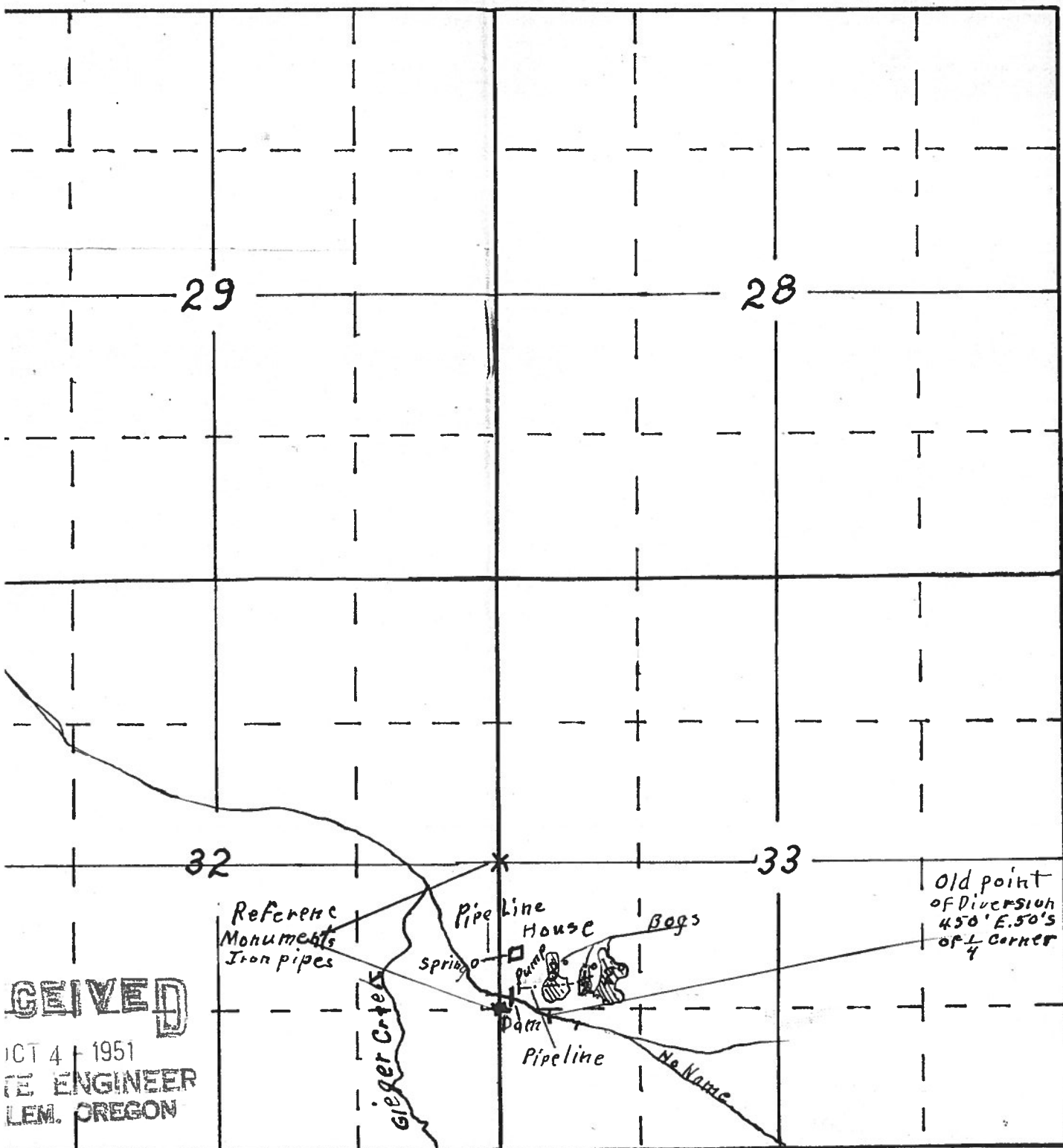
APPLICATION 21552

PERMIT NO. 16898

TOWNSHIP 28 S. RANGE 14 W. W.M.

Cooe County

North



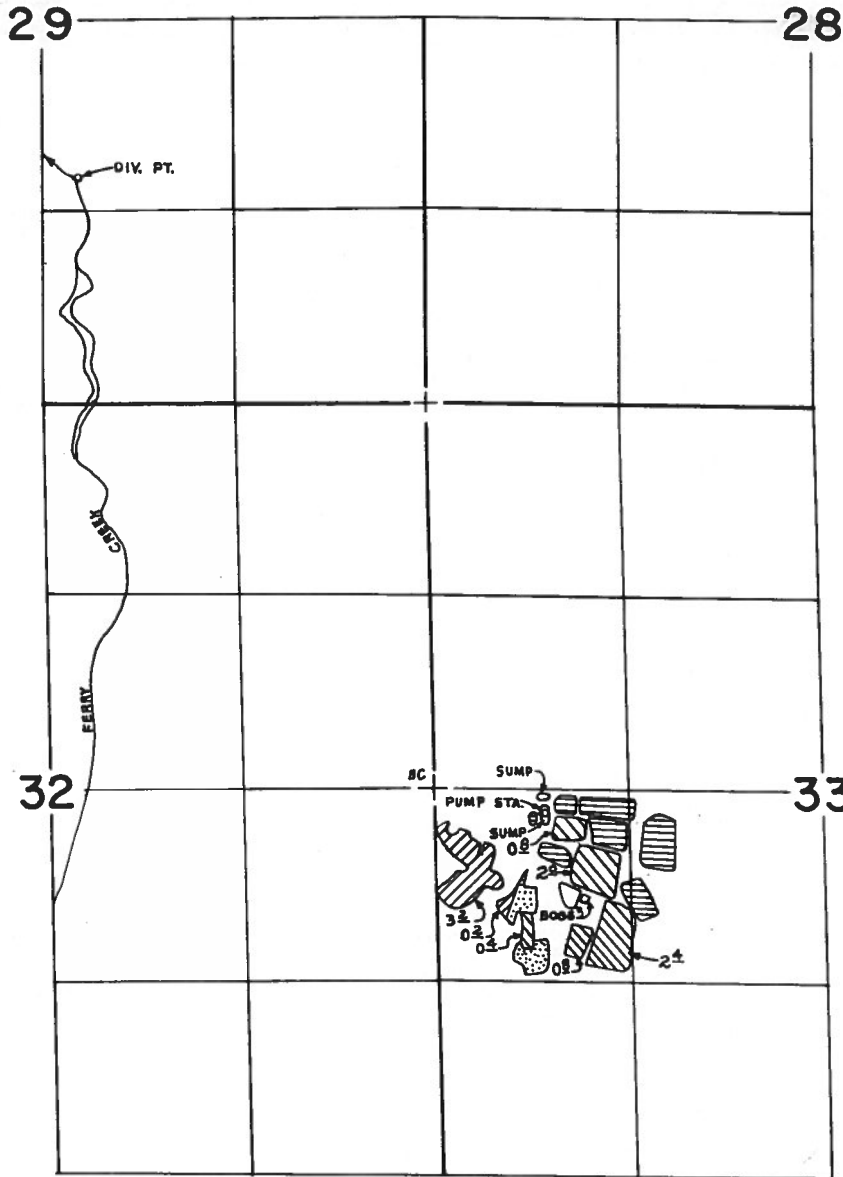
**CEIVED**  
 OCT 4 1951  
 ENGINEER  
 LEM. OREGON

Old point  
 of Diversion  
 450' E. 50'S  
 of 1/4 corner

Scale 4" = 1 Mile





South

# T. 28S., R. 14 W., W.M.



DIV. PT. LOCATED 230' N. & 240' E. FROM S. 1/16 CORNER SECTION 29  
 PUMP STA. LOCATED 165' S. & 760' E. FROM 1/4 CORNER SECTIONS 32 & 33

SCALE: 4" = 1 mile  
**FINAL PROOF SURVEY**  
 UNDER

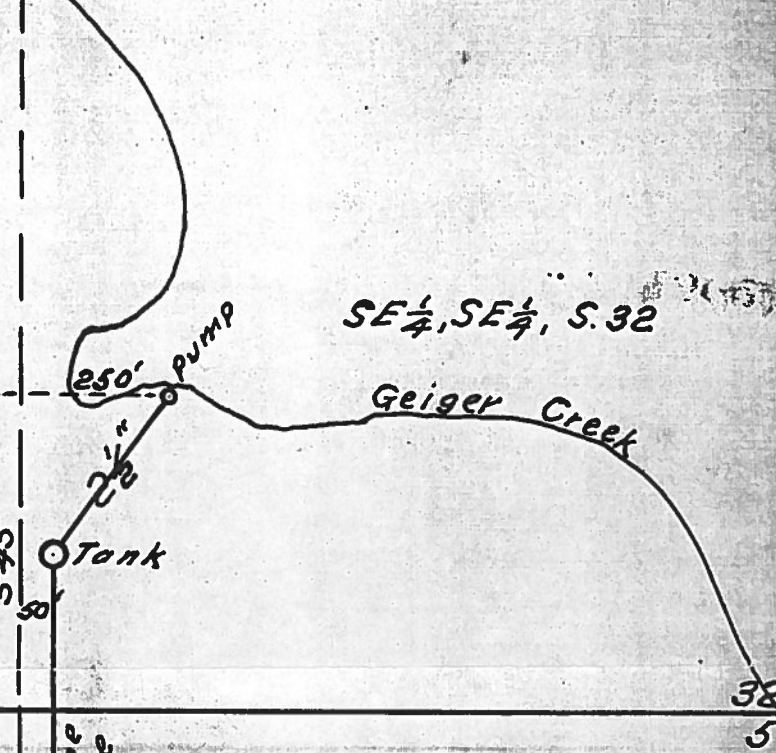
-  A # 58672 IRRIGATION
-  A # 58677 IRRIGATION, TEMPERATURE CONTROL & CRANBERRY HARVESTING.
-  A # 42775 IRRIGATION, TEMPERATURE CONTROL & CRANBERRY HARVESTING.
-  A # 21552 IRRIGATION

Application No. 58677... Permit No. 44582.....  
 IN NAME OF

.....**LOWELL E. MEYER**.....

Surveyed SEPT. 18, 1984, by *J. E. Cashion*.....





T. 28 S. R. 14 W. W. M.  
T. 29 S. R. 14 W. W. M.

Lot 2

Lot 1

one 2 1/2" Pipe  
one 2 1/2" Pipe

SW 1/4, NE 1/4, S. 5

SE 1/4, NE 1/4, S. 5

Scale: 1 in. = 330 ft.

20179 07c  
17-22-02

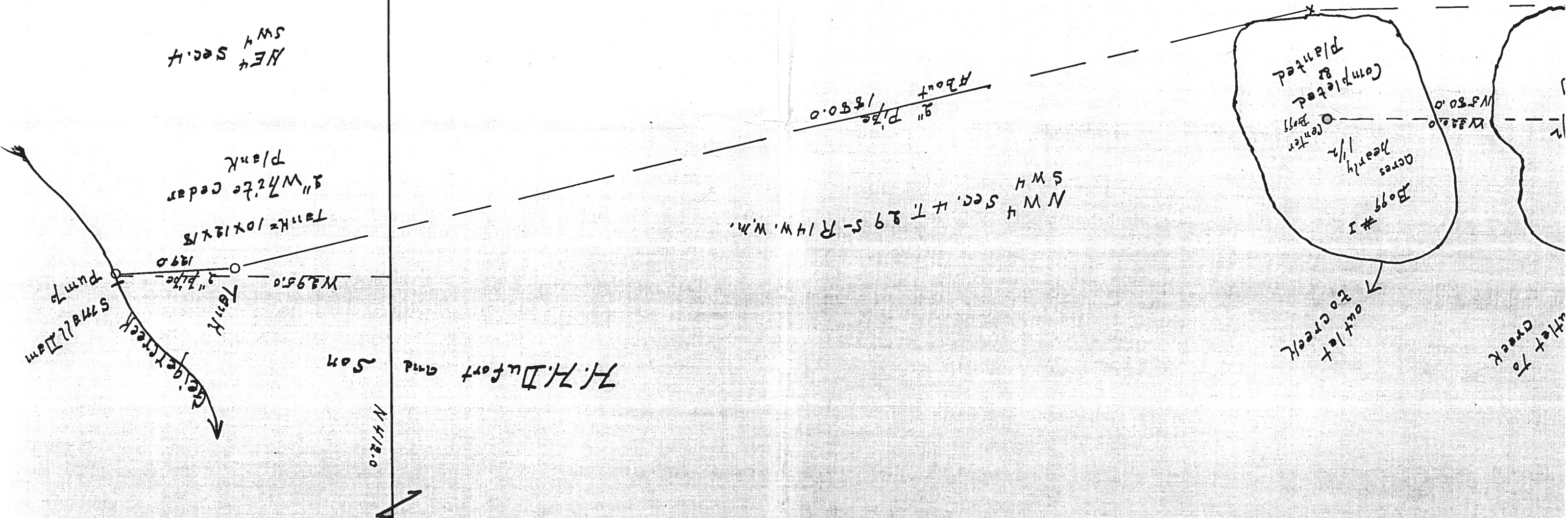
Map accompanying application of  
W. T. Dufort to appropriate water.

Permit No. 15722

App 14782  
 Permit No. 10598 for 10728  
 Application No. 14585

1/6  
 found

H. H. Duffort and Son



PLAT OF H. H. DUFFORT and SON GRABER'S 1/2 SW 4 Sec. 4 T. 29 S. R. 14 W. W.M.  
 BOGG WATER FILING

I, E. H. Kern, of Coquille, Coos County, Oregon, do hereby certify that this map was made by me from notes taken during actual survey made by me on the 5th day of Sept. 1938, and that it correctly represents the works described in the accompanying application and together with the location of streams and other details in the 2nd mediate vicinity.

E. H. Kern, Co. Surveyor Coos Co. Ore.

NE 4 Sec. 4 SW 4

NW 4 Sec. 4 T. 29 S. R. 14 W. W.M.

Bogg #1  
 Acres nearly 1/2  
 Center  
 Completed & planted

9" Pipe 1850.0  
 About

Tank 10x12x18  
 2" White Cedar Plank

Tank  
 2" Pipe  
 1890

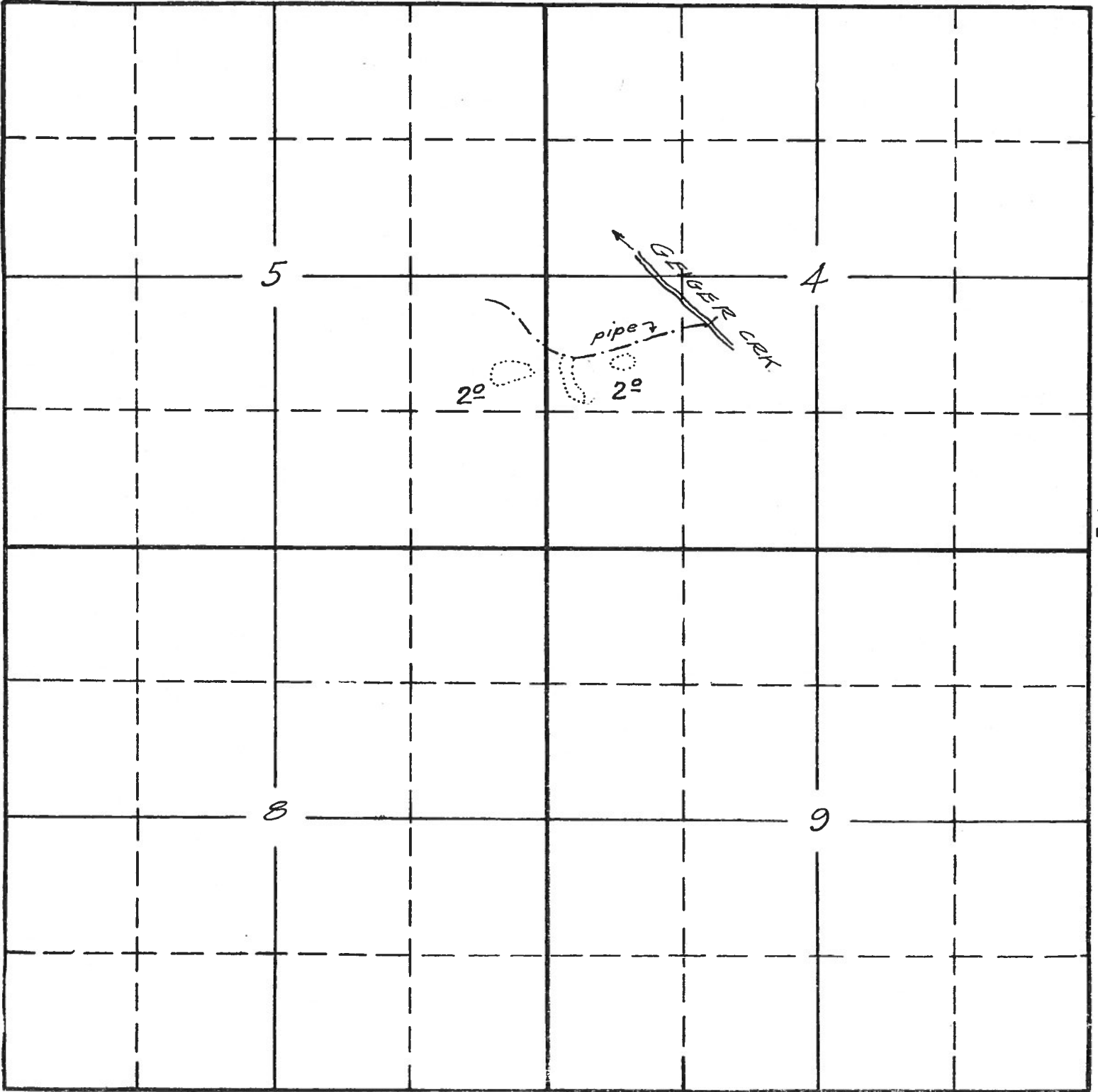
Small Dam  
 Pump

out let  
 to creek

out to  
 creek

TOWNSHIP 29.5, RANGE 14 W, W. M.

North



South

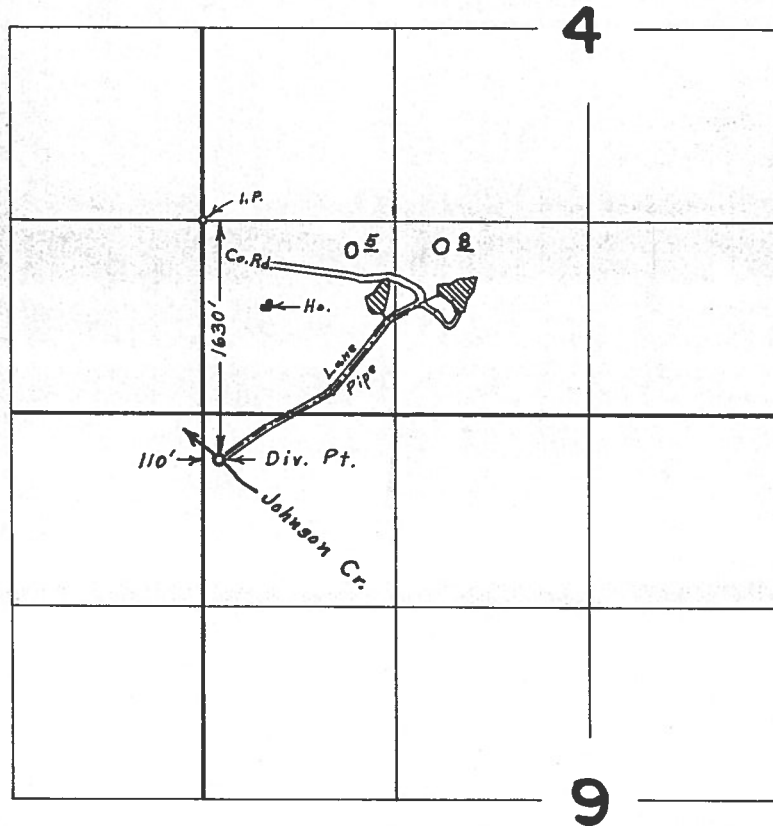
20090 OK  
17-22A

Sketched in office of  
the State Engineer from  
data by applicant 11-29-43.  
EKN

Application No. 20090  
Permit No. 15653



# T.29 S.R.14 W.W.M.



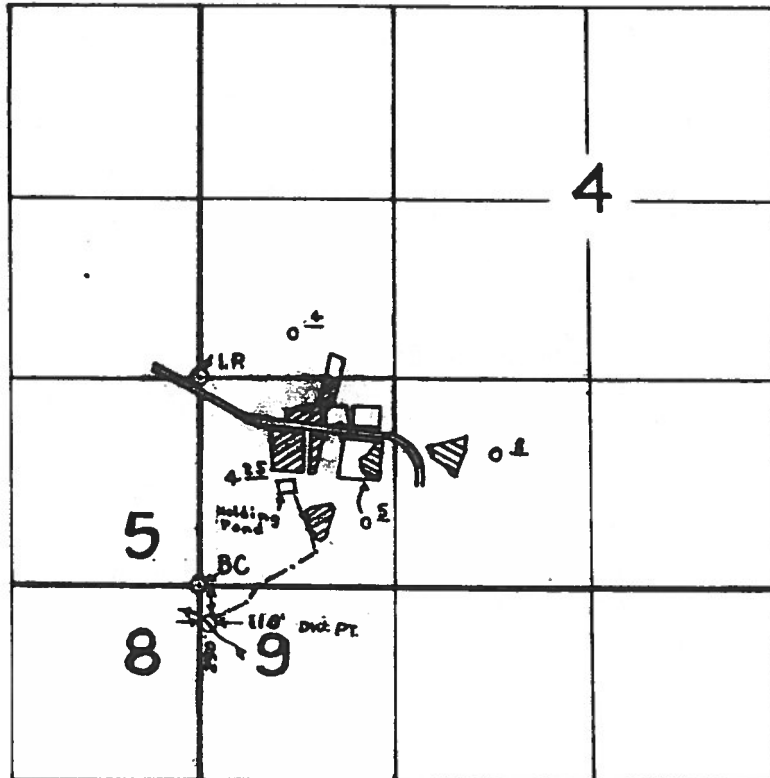
## FINAL PROOF SURVEY UNDER

Application No. 31234 Permit No. 24615  
IN NAME OF

**RONNY O. HAGA**

Surveyed July 18, 1968, by L. E. Gould

T. 29 S. R. 14 W. W.M.



**FINAL PROOF SURVEY**  
UNDER

▨ Permits 41467, 47504

▨ Permit 47504

Application No. 55207 .647.33... Permit No. 41467 47504.....  
IN NAME OF

..... **RONNY O. HAGA** .....

Surveyed Sept. 7, 1983., by S. Donaldson...

Application No. 68371

Permit No. 49680

RECEIVED

NOV - 7 1985

WATER RESOURCES DEPT  
SALEM, OREGON

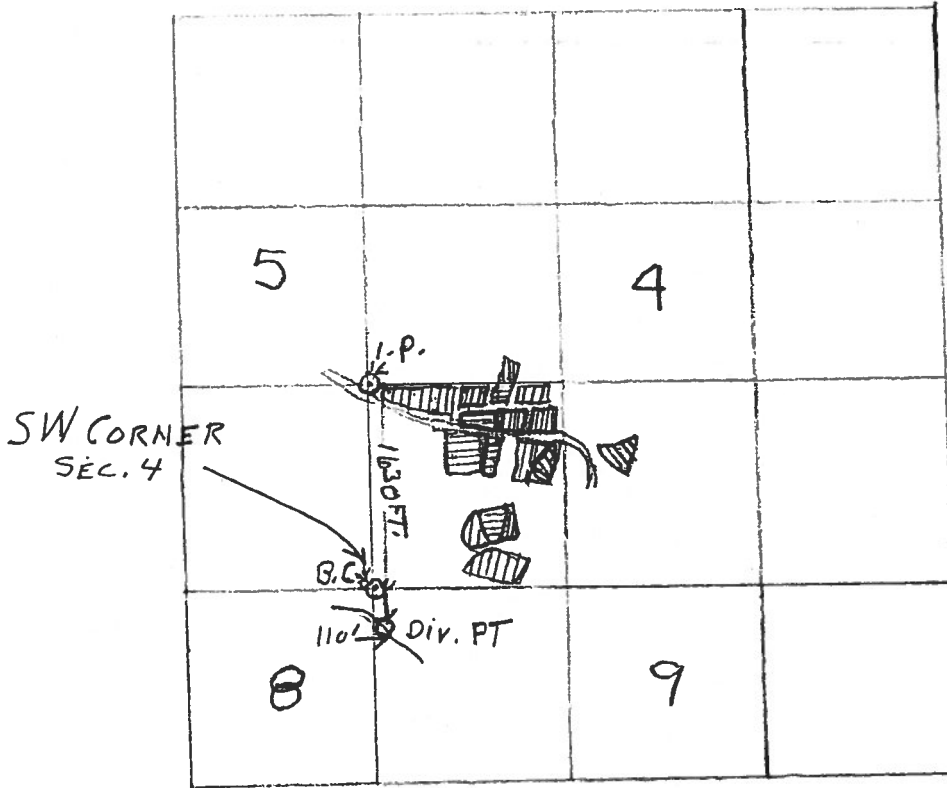
T. 29 S. R. 14 W. W.M.


RECEIVED


APR 9 1987


WATER RESOURCES DEPT  
SALEM, OREGON

SCALE 4" = 1 MILE



 Lands irrigated under Cert. # 35720 and receive water for temperature control and flood harvesting under Permit 47504 (0.5 ac SW $\frac{1}{4}$  SW $\frac{1}{4}$  and 0.8 ac SE $\frac{1}{4}$  SW $\frac{1}{4}$ )

 Lands irrigated and receive water for temperature control under Permit 41469 and receive water for flood harvesting under Permit 47504 (4.75 ac SW $\frac{1}{4}$  SW $\frac{1}{4}$ )

 Lands to be irrigated and to receive water for temperature control and flood harvesting under Permit Approving Application 68371 (7.85 ac SW $\frac{1}{4}$  SW $\frac{1}{4}$  and 0.25 ac NW $\frac{1}{4}$  SW $\frac{1}{4}$ )

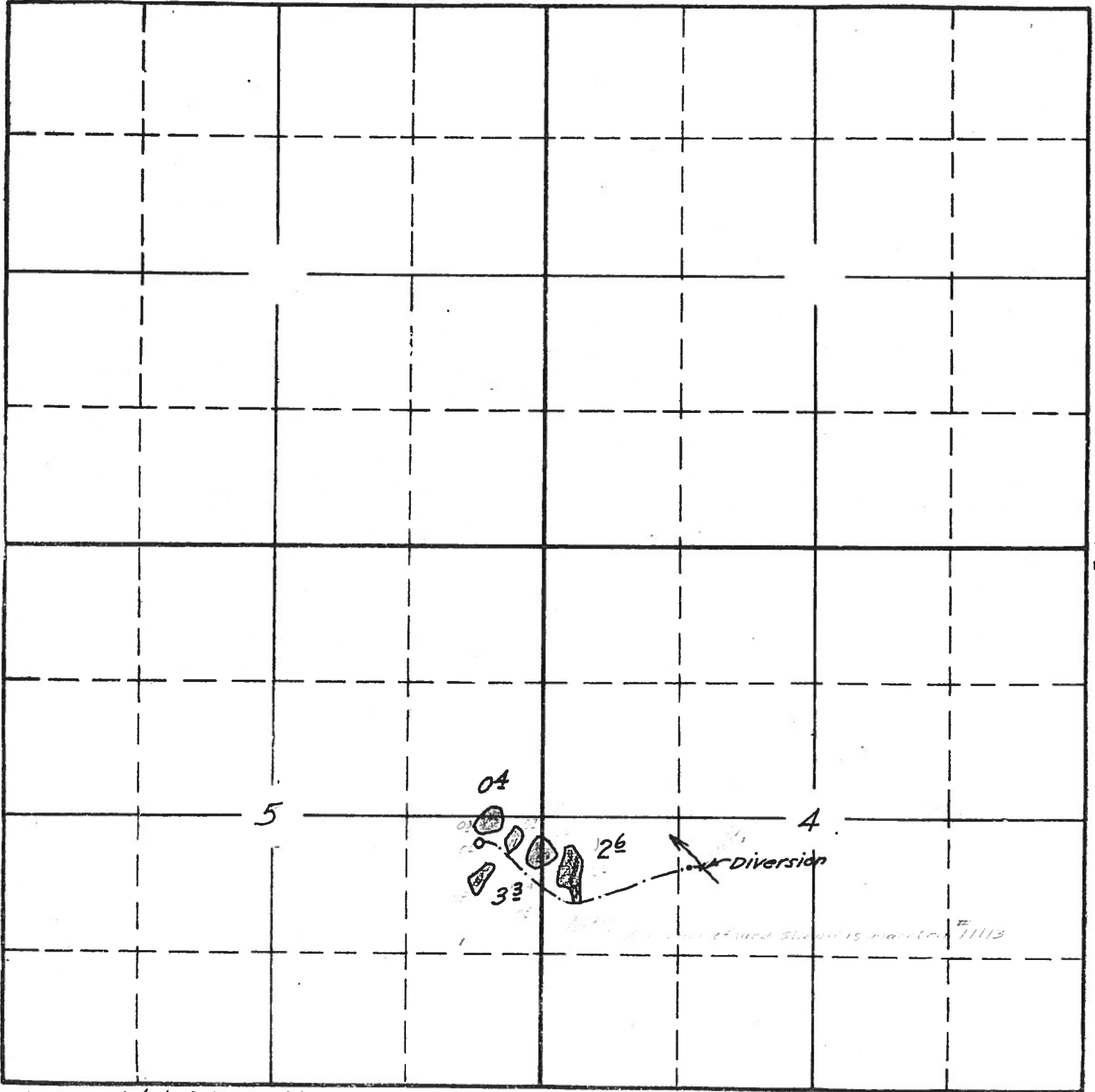


TOWNSHIP 29 S , RANGE 14 W , W. M.

North

West

East



Surveyed July 5, 1940 C.A.C.

South

Cont 13795

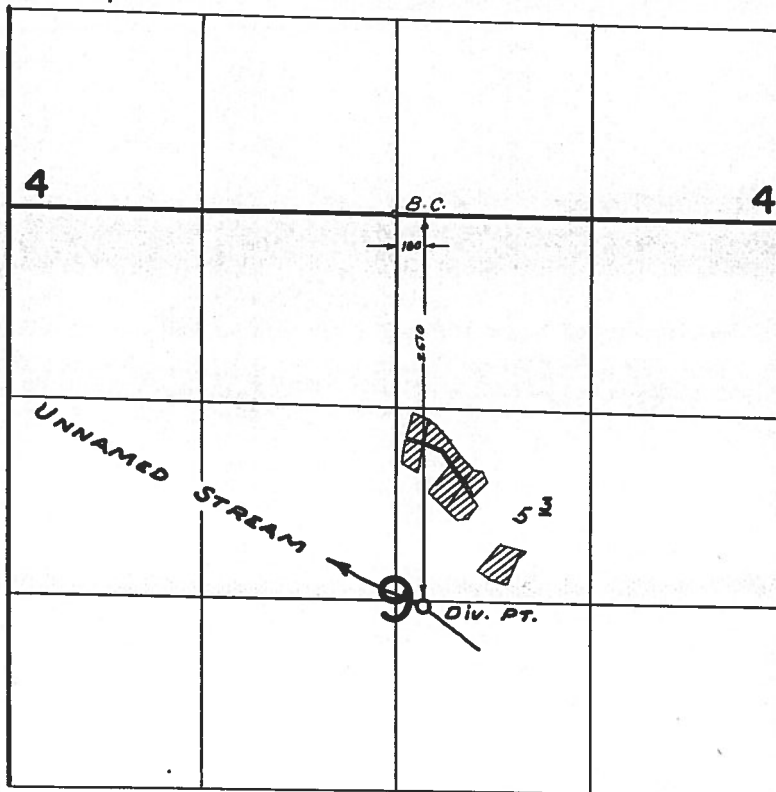
put 1 res in  
NE SW sec. 4

and 3 1/2 irrig in NE SE 5

APPLICATION No. 18237

PERMIT No. 13898

T.29S.R.14W.W.M.



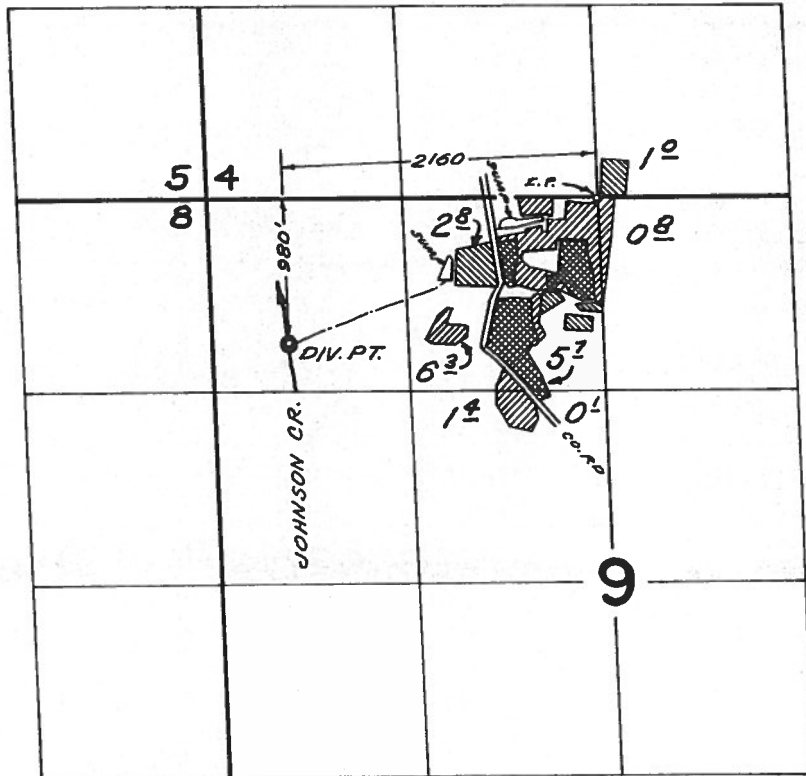
**FINAL PROOF SURVEY**  
UNDER

Application No. 35031 Permit No. 27437  
IN NAME OF

ERWIN RICHERT

Surveyed MAY 17, 1969, by W. RUPPERT

# T.29S.R.14W.W.M.



 PER. # 30926 - PRIMARY  PER. # 32008  
 PER. # 30926 - SUPPLEMENTAL

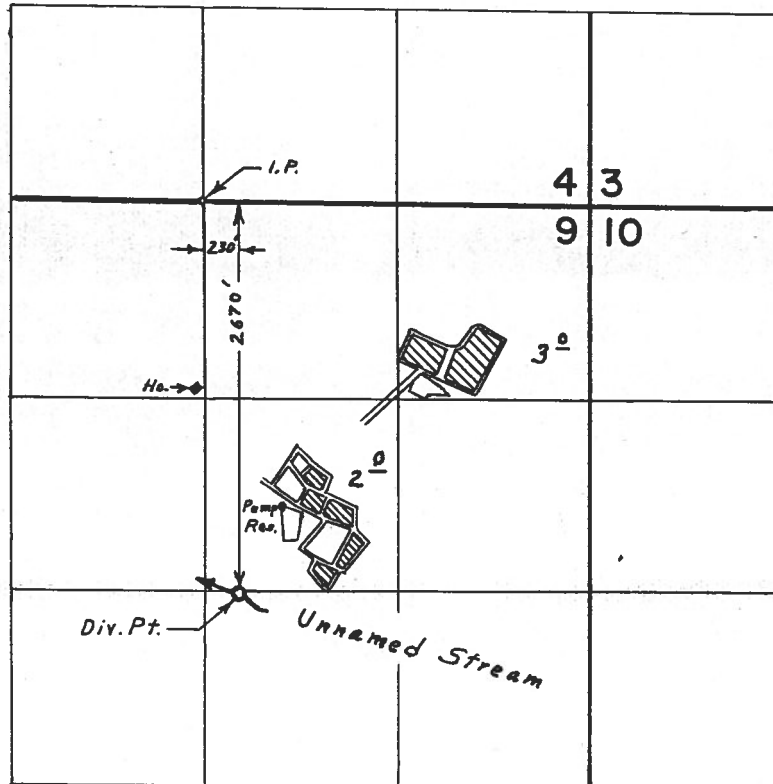
## FINAL PROOF SURVEY UNDER

Application No. 41401 Permit No. 30926  
42825 32008  
IN NAME OF

RODERICK J. NIELSON

Surveyed MAY 17 1969, by W. J. RUPPERT

T.29 S., R.14 W., W.M.



**FINAL PROOF SURVEY**  
UNDER

Application No. 46863 Permit No. 35039  
IN NAME OF  
**ESTATE OF ERWIN F. RICHART**  
Surveyed April 20, 1972, by L. E. Gould

Revised Application Map  
for Application #59907

RECEIVED

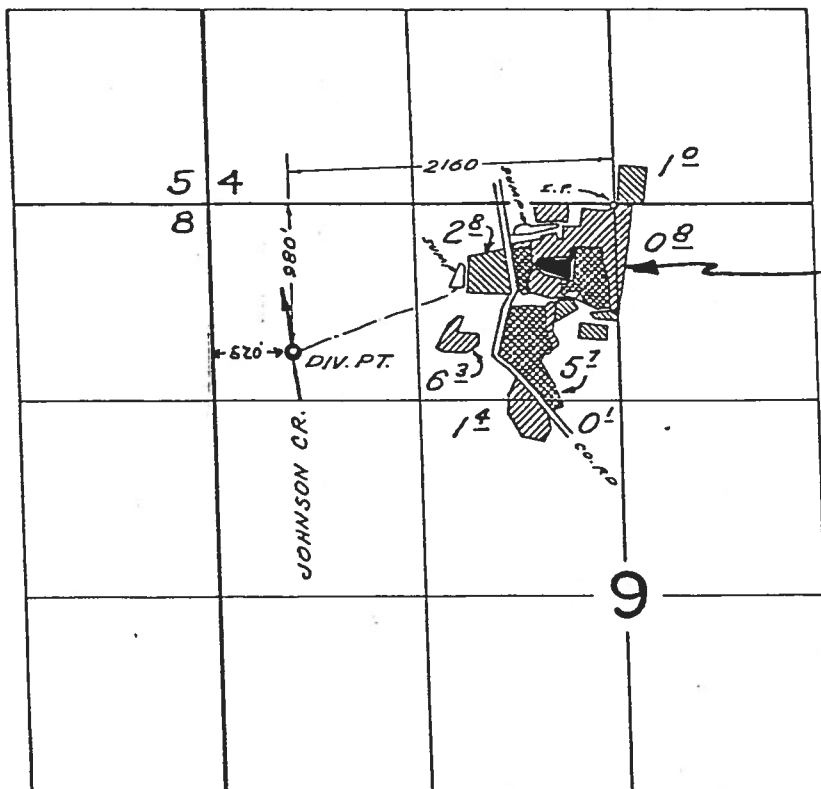
MAY 5 1981

WATER RESOURCES DEPT  
SALEM, OREGON

T.29S.R.14W.W.M.

Application No. 59907

Permit No. 45731



1 ac IN NE NW  
SHAD<sup>BLACK</sup>ED IN ~~yellow~~:  
Irrigation, Temp control  
AND flood harvest.  
All other AREAS for  
Temp control and flood  
harvest. total  
ac for flood harvest  
and temp control only  
18.1 ac  
1 ac for irrigation  
temp control  
2 flood harvest

~~PER. # 30520 PRIMARY~~ ~~PER. # 32008~~  
~~PER. # 30520 SUPPLEMENTAL~~

~~FINAL PROOF SURVEY~~  
UNDER

total 19.1 ac

~~41401~~ ~~30926~~  
Application No. ~~22825~~ Permit No. ~~32008~~  
IN NAME OF

RODERICK J. NIELSON

Surveyed MAY 17 1969, by W. J. RUPPERT

Revised Application # 59907

RECEIVED  
OCT 23 1980

**OREGON  
WATER  
RESOURCES  
DEPARTMENT**

Files

69654 +

R-69708

Windhurst appls. -



Commerce Building  
158 12th Street NE  
Salem OR 97310-0210

To Reese Bender Date: 3/15/96 Page 1 of 12

Fax # 541-888-6860

From Darlene Castle

**Comments:**

As you probably know, these are files the triage team will be reviewing. Dwight is expecting that you will be discussing these in the next couple of weeks when you are here. If you have questions regarding the WA tables, please call Jake Sramet @ 1-800-624-3199, x274

**Fax. 503-378-2496**

Dam Safety  
Groundwater  
Hydrographics  
Public Information

Director's Office  
Hanford Studi  
Information (C  
Strat. Planning

GIS / Mapping

ison

**Fax. 503-378-8130**

Accounting / Fiscal  
Conservation  
GWEB Liaison  
Office Services  
Resource Management  
Well Construction

CWRE Coordin  
District 16 Wat  
Land Use Coord  
Personnel  
Water Developm  
Well Driller Lic

**Fax. 503-378-6203**

Adjudications  
Transfers

Final Proof Surve  
Water Rights

Take -  
Dwight said  
that Reese  
could talk to  
you about the  
WA tables -  
(attached are copies  
from the IR's)



69654

WATER AVAILABILITY TABLE

Basin: South Coast

Water Availability Subbasin: 1603000000000000 (and Nested Subbasins)

Exceedance Level: 80

Time: 14:42

Date: 12/08/1994

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	1600000000000000	YES	YES	YES	YES	YES	YES	YES	NO	NO	NO	YES	YES	YES
2	1603000000000000	YES	YES	YES	YES	YES	YES	YES	NO	NO	NO	NO	YES	YES
		10	10	10	10	9.5	2.5	1.2					10	

69654 2

LIMITING WATER AVAILABILITY SUBBASINS

Water Availability Subbasin: 1603000000000000

Basin: South Coast

Exceedance Level: 80

Time: 14:42

Date: 12/08/1994

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	1603000000000000	BEAR CR	YES	43.6
2	1603000000000000	BEAR CR	YES	61.2
3	1603000000000000	BEAR CR	YES	44.2
4	1603000000000000	BEAR CR	YES	27.6
5	1603000000000000	BEAR CR	YES	9.5
6	1603000000000000	BEAR CR	YES	2.6
7	1603000000000000	BEAR CR	YES	1.3
8	1600000000000000	COQUILLE R	NO	-54.6
9	1600000000000000	COQUILLE R	NO	-35.6
10	1600000000000000	COQUILLE R	NO	-300.0
11	1603000000000000	BEAR CR	NO	-3.8
12	1603000000000000	BEAR CR	YES	28.3
Stor	1603000000000000	BEAR CR	YES	27300.0

DETAILED REPORT ON WATER AVAILABILITY

Basin: South Coast  
 Stream: BEAR CR > COQUILLE R  
 Water Availability Subbasin: 1603000000000000  
 Exceedance Level: 80

Time: 14:42

Date: 12/08/1994

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Water Available 1/1/93	CU + Stor After 1/1/93	Net Minimum Flow	Instream Water Rights	Net Water Available
1	54.00	0.10	53.90	0.28	53.60	10.00	43.60
2	71.70	0.20	71.50	0.35	71.20	10.00	61.20
3	54.50	0.10	54.40	0.22	54.20	10.00	44.20
4	37.80	0.10	37.70	0.15	37.60	10.00	27.60
5	19.80	0.20	19.60	0.06	19.50	10.00	9.54
6	9.15	0.55	8.60	0.02	8.58	6.00	2.58
7	4.11	0.82	3.29	0.00	3.29	2.00	1.29
8	1.99	0.68	1.31	0.00	1.31	2.00	-0.69
9	1.51	0.33	1.18	0.00	1.18	2.00	-0.82
10	1.48	0.11	1.37	0.00	1.37	2.00	-0.63
11	6.34	0.10	6.24	0.03	6.21	10.00	-3.79
12	38.60	0.10	38.50	0.23	38.30	10.00	28.30
Stor	32600	203	32400	81	32300	5030	27300

DETAILED REPORT OF ISWRs

Basin: South Coast

Stream: BEAR CR

> COQUILLE R

Water Availability Subbasin: 1603000000000000

Time: 14:42

Date: 12/08/1994

		-----ISWRs-----					
APP # :	70230A	0	0	0	0	0	RESULTANT
STATUS:	App.						
1	10.0	0.0	0.0	0.0	0.0	0.0	10.0 A
2	10.0	0.0	0.0	0.0	0.0	0.0	10.0 A
3	10.0	0.0	0.0	0.0	0.0	0.0	10.0 A
4	10.0	0.0	0.0	0.0	0.0	0.0	10.0 A
5	10.0	0.0	0.0	0.0	0.0	0.0	10.0 A
6	6.0	0.0	0.0	0.0	0.0	0.0	6.0 A
7	2.0	0.0	0.0	0.0	0.0	0.0	2.0 A
8	2.0	0.0	0.0	0.0	0.0	0.0	2.0 A
9	2.0	0.0	0.0	0.0	0.0	0.0	2.0 A
10	2.0	0.0	0.0	0.0	0.0	0.0	2.0 A
11	10.0	0.0	0.0	0.0	0.0	0.0	10.0 A
12	10.0	0.0	0.0	0.0	0.0	0.0	10.0 A

69654 5.

DETAILED REPORT ON WATER AVAILABILITY

Basin: South Coast  
 Stream: COQUILLE R > PACIFIC OCEAN  
 Water Availability Subbasin: 1600000000000000  
 Exceedance Level: 80  
 Time: 14:51

Date: 12/08/1994

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Water Available 1/1/93	CU + Stor After 1/1/93	Net Minimum Flow	Instream Water Rights	Net Water Available
1	2180.00	20.00	2160.00	2.00	2160.00	360.00	1800.00
2	2890.00	20.00	2870.00	2.14	2870.00	340.00	2530.00
3	2630.00	10.00	2620.00	1.93	2620.00	340.00	2280.00
4	1520.00	20.00	1500.00	1.26	1500.00	340.00	1160.00
5	731.00	26.00	705.00	1.65	703.00	340.00	363.00
6	350.00	52.00	298.00	2.77	295.00	200.00	95.20
7	156.00	73.20	82.80	3.65	79.20	71.00	8.15
8	79.80	62.10	17.70	1.30	16.40	71.00	-54.60
9	71.10	34.80	36.30	0.87	35.40	71.00	-35.60
10	95.20	15.50	79.70	0.10	80.00	380.00	-300.00
11	515.00	14.00	501.00	0.99	500.00	380.00	120.00
12	1890.00	20.00	1870.00	1.30	1870.00	360.00	1510.00
Stor	1700000	22000	1680000	1190	1680000	195000	1490000





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JAN 17 1996  
WATER RESOURCES DEPT.  
SALEM, OREGON



DEPARTMENT OF  
FISH AND  
WILDLIFE

CHARLESTON  
DISTRICT OFFICE

January 12, 1996

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

RE: Water Rights Applications #S -69654 & R -69708

From the limited information provided in your Public Notice of Water Right Application Processing dated 12/19/95, these applications appear to be the Windhurst Road applications for Bill Creek (Bear Creek/Coquille River). These applications have been in contested status since about August, 1990, under the guidance of Hearings Referee Weisha Mize.

ODFW has been working with the applicants for some time in an attempt to resolve this issue. Good progress is being made, and we hope to come to full resolution soon.

Therefore, we request that no action be taken on these applications in their current form while the parties are working towards resolution.

Pertaining to these applications in their original form, ODFW's formal comment letters on these applications are still valid. These letters to WRD and to the Commission are dated: 9/2/88, 9/23/88, 4/7/89, & 4/27/89.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Reese E. Bender".

Reese E. Bender  
Assistant District Fishery Biologist

Enclosure  
c: ODFW--HCD



4475 Boat Basin Drive  
PO Box 5430  
Charleston, OR 97420  
(503) 888-5515  
FAX (503) 888-6860

# Water Watch

Delivered via FAX and Regular Mail ONLY BY REGISTERED MAIL

December 29, 1995

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

**RE: Comments, 69654, Windhurst Road Water Corporation, Bear Creek/Coquille  
South Coast Basin**

Dear Water Rights Section:

The public notice for application 69654 states that the requested quantity of water is 36.59 cfs for cranberry use. The Initial Review, on the otherhand, states the proposed quantity is 10 cfs. Which is correct?

WaterWatch has concerns with regards to the nature of use proposed by this permit, thus we submit the following comments pursuant to SB 674 B.

1. The presumption that this use will not impair or be detrimental to the public interest under Senate Bill 674 B has not been met.

In order for the public interest presumption to apply, four criteria must be met: the use must be allowed under the applicable basin program, water must be available, the proposed use must not injure other water rights, and the use must comply with the rules of the Water Resources Commission. The presumption is not met for this application for the following reasons.

a. water is not available for this use

The applicant applied for water year-round. Water is not available for the full term of the proposed use. There is nothing in the file to indicate that the proposed use requires water only during the time period that water is available nor is there evidence that water is available from an alternate source. Thus, there is not water available for the proposed use and the public interest presumption does not apply.

The Department has determined that water is not available for use from August 1 through November 30 and is limited during the months of May, June, and July. Cranberry operations require water year round for irrigation, harvest, and temperature control. To allow limited use is to essentially invite illegal use.

Moreover, there is a senior pending instream water right application on Bear Creek. If the Department had taken into account the amounts requested by ODFW they would have

# Water Watch

## FACSIMILE TRANSMITTAL COVER SHEET

Date: 12-29-95

To: Water Rights Section, WRD

Fax: (503) 378-8130

From: K. Priestley Fax number (503) 295-2791

Total Pages Being Sent, including this page: 5

If there are any problems receiving this transmission,  
please telephone WaterWatch immediately at 503-295-4039.

Re: Comments 69654

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS BELOW. THANK YOU.

Confirming call:

Initials \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ WRD contact \_\_\_\_\_

found that water was not available during May, June, and July (in addition to the acknowledged August through November). Because there is not water available, this application should be rejected.

2. The proposed impair and are detrimental to the public interest

a. The proposed use depletes flows needed for instream needs.

Bear Creek and the Coquille River support many instream uses, including fishery resources. Specifically, Bear Creek supports winter steelhead, searun cutthroat trout, and coho. There is a senior pending instream water right requesting flows for these species for migration, spawning, egg incubation, fry emergence and juvenile rearing. Flows are critical to these fish throughout their entire lifecycle. However, because of the overappropriated state of Bear Creek River, summer flows are especially important. Low flows in summer months impair survival by causing increased water temperature, low dissolved oxygen levels and lack of habitat.

The proposed withdrawal of 10 cfs (or 36.59 cfs) will lower already low flows in the Bear Creek, especially if the Department allows withdrawal in the summer months where the water availability analysis shows that there is no water available. To allow such use is not in the public interest.

In hope of warding off the proposed listing of Oregon's coastal coho under the Federal Endangered Species Act, the Governor has directed state agencies to implement plans that would show a commitment to the protection and recovery of these fish. The Water Resources Department responded by "suspending" all action on coastal applications after June 3, 1994. This will stop action on approximately 136 applications. This is only 10% of pending applications in these basins and in reality will do very little to actually protect fish.

That the Department proposes issuance of this large request that has a priority day only two days before the cutoff date shows a blatant disregard for the actual plight of the fish. This combined with the fact that the Department has not issued a senior pending instream water right to protect flows for coho (nor does it look like they are going to issue it for the amount requested) leads to the conclusion that commitment to protecting and restoring coho runs is nothing more than a paper pledge.

b. Water Quality

When evaluating applications for new uses, the Department has a duty to ensure that the use will not harm either the quantity or the quality of surface waters. The governing statutory and regulatory schemes make this self evident. See e.g. ORS 537.170(5)(a)&(c). Other statutory mandates amplify this requirement. There was indication of such an evaluation in the files.

The technical report does not reveal whether or not DEQ has made a determination regarding the effect this proposed use on the water quality of Bear Creek or the Coquille River. Cranberry uses may result in discharges to surface waters. Until the DEQ has done this

analysis, the Department has insufficient information upon which to make a public interest determination.

**c. Measurement and Reporting**

The initial review states that if a permit is issued it will likely include the condition that "you may be required to measure the amount of water used and report that use annually." Such a vague standard is not in the public interest, especially given the extreme resource concerns in the basin. The proposed measurement and reporting condition should allow the Director to require mandatory measurement and reporting of both rate and duty of water use. The proposed permit conditions restrict use based upon a specific rate. Measurement and reporting of water use is to be a useful informational and regulatory tool for the Department, it should provide the information needed to ensure that water use is within the terms of the permit.

**d. Fish screening and passage**

Given the critical status of fish populations in this river system and the adverse effects this diversion will fish habitat, screening and passage must be mandatory and clearly be required to be in place before any storage or diversion of water. In addition, failure to maintain screening and passage facilities must be grounds for shutting off water use. There should be a condition which clearly states these requirements.

**e. Conservation Conditioning is inadequate**

Oregon statutes and rules call for the state to "aggressively promote" water conservation and place a high priority on eliminating waste and improving the efficiency of water use. ORS 537.460(2)(a) and OAR 690-410-060(1). Given the critical status of fish populations in the basin, the water quality problems, it is imperative that if this use were allowed, they be held to a strict efficiency standard prior to issuance of any proposed permit.

**f. Processing out of order.**

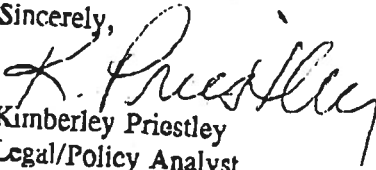
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ORS 537.170 requires the Department to ensure that waters in the basin will be used and controlled for all purposes, not just consumptive purposes. The Statewide Instream Flow Protection Policy states that "(w)here streamflows have been depleted to the point that public uses have been impaired, methods to restore the flows are to be developed and implemented." OAR 690-410-030(1). When considering applications for new water rights the agency is required to consider the needs of instream and out-of-stream uses and the need to develop streamflow restoration programs. OAR 690-410-030(2)(a).

Establishment of the instream water right also furthers statewide policies, priorities and goals for streamflow restoration. Providing streamflow protection for fish is also necessary in order to carry out the state policy of restoring native fish stocks. ORS 496.435. Thus, protection of the public interest requires denial of these applications.

If hypothetically, this proposed use was allowed, it will be junior to the existing instream water right application and should be conditioned to protect the senior instream flows. Critical to the protection of instream flows is knowing and controlling water use in the basin. These and other potential water users in the basin should be required to contribute to activities that enable the state to better manage and control the resource - such as contributing funds for installation and maintenance of gauging stations in key locations.

Sincerely,

  
Kimberley Priestley  
Legal/Policy Analyst



# Water Watch

R I V E R S N E E D W A T E R

Delivered via FAX and Regular Mail

RECEIVED

JAN - 2 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

December 29, 1995

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

**RE: Comments, 69654, Windhurst Road Water Corporation, Bear Creek/Coquille  
South Coast Basin**

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JAN - 2 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

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**d. Fish screening and passage**

Given the critical status of fish populations in this river system and the adverse effects this diversion will fish habitat, screening and passage must be **mandatory** and clearly be required to be in place before any storage or diversion of water. In addition, failure to maintain screening and passage facilities must be grounds for shutting off water use. There should be a condition which clearly states these requirements.

**e. Conservation Conditioning is inadequate**

Oregon statutes and rules call for the state to "aggressively promote" water conservation and places a high priority on eliminating waste and improving the efficiency of water use. ORS 537.460(2)(a) and OAR 690-410-060(1). Given the critical status of fish populations in the basin, the water quality problems, it is imperative that if this use were allowed, they be held to a strict efficiency standard **prior to** issuance of any proposed permit.

**f. Processing out of order**

The Commission has directed the Department to process applications in the order received. This application was filed in June of 1994. There is a senior pending instream water right requesting flows for coho, steelhead, and cutthroat migration, spawning, egg incubation, fry emergence and juvenile rearing. Flows are critical to these fish throughout their entire lifecycle.

ORS 537.170 requires the Department to ensure that waters in the basin will be used and controlled for all purposes, not just consumptive purposes. The Statewide Instream Flow Protection Policy states that "(w)here streamflows have been depleted to the point that public uses have been impaired, methods to restore the flows are to be developed and implemented." OAR 690-410-030(1). When considering applications for new water rights the agency is required to consider the needs of instream and out-of-stream uses and the need to develop streamflow restoration programs. OAR 690-410-030(2)(a).



RECEIVED

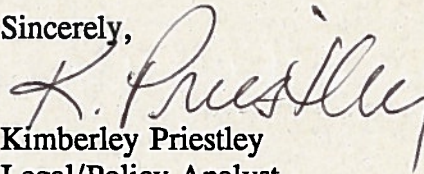
JAN - 2 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

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Sincerely,



Kimberley Priestley  
Legal/Policy Analyst

\*\*\* OREGON WATER RESOURCES DEPARTMENT \*\*\*  
 Select by certificate 48118

5/1994

Name: BRUCE & JUDITH MANICKE County : COOS Application: S 42775  
 GORDON GIBSON, LOWELL MEYER Status : NON-CANCELLED Permit : S 31857  
 PO BOX 584 Certificate type: OR Certificate: 48118  
 BANDON, OR 97411 Certificate date: 6/14/1979 Supercedes certificate: 0

Related documents:

Remarks :

Source	Use	P/S	Priority	Quantity	Location	LOT/DLC	Status
FERRY CR > COQUILLE R	AG	P	9/ 7/1966	0.5500CFS	28 S 14 W 29 NWSE		V

Legal description: 4180 FT N & 2480 FT W FM E1/4 COR, S32

FERRY CR > COQUILLE R	TC	P	9/ 7/1966	1.0000CFS	28 S 14 W 29 NWSE		V
-----------------------	----	---	-----------	-----------	-------------------	--	---

Legal description: 4180 FT N & 2480 FT W FM E1/4 COR, S32

FERRY CR > COQUILLE R	TR	P	9/ 7/1966	0.1400CFS	28 S 14 W 29 NWSE		V
-----------------------	----	---	-----------	-----------	-------------------	--	---

Legal description: 4180 FT N & 2480 FT W FM E1/4 COR, S32

Rate: 1/40 Limit: 3.0 AFT/acre/year Other limits: CRANBERRIES; 1/80,2.5 OTHERWISE

Points of appropriations:	Use	P/S	Location	DLC/LOT	Acres	Status
	TC	P	28 S 14 W 32 NENE		2.800	V
	AG	P	28 S 14 W 32 NENE		2.800	V
	TR	P	28 S 14 W 32 NENE		2.800	V
	AG	P	28 S 14 W 32 SENE		2.200	V
	TC	P	28 S 14 W 32 SENE		2.200	V
	TR	P	28 S 14 W 32 SENE		2.200	V
	TR	P	28 S 14 W 33 NESW		2.800	V
	TC	P	28 S 14 W 33 NESW		2.800	V
	AG	P	28 S 14 W 33 NESW		2.800	V
	AG	P	28 S 14 W 33 NWSW		3.300	V
	TC	P	28 S 14 W 33 NWSW		3.300	V
	TR	P	28 S 14 W 33 NWSW		3.300	V



\*\*\* OREGON WATER RESOURCES DEPARTMENT \*\*\*

1/ 5/1994

Select by certificate 21890

Name: ELMER J ALLINGER

County : COOS

Application: S 21552

Status : NON-CANCELLED

Permit : S 16898

PO BOX 115

Certificate type: OR

Certificate: 21890

BANDON, OR 97411

Certificate date: 12/21/1956

Supercedes certificate: 0

Related documents:

Remarks :

Source	Use	P/S	Priority	Quantity	Location	LOT/DLC	Status
UNN STR > FERRY CR	IR	P	4/11/1946	0.0700CFS	28 S 14 W 33 NWSW		V

Rate: 1/80 Limit: 2.5 AFT/acre/year Other limits:

Points of appropriations:	Use	P/S	Location	DLC/LOT	Acres	Status
	IR	P	28 S 14 W 33 NWSW		5.500	V



\*\*\* OREGON WATER RESOURCES DEPARTMENT \*\*\*

1/ 5/1994

Select by certificate 11113

Name: H H/WM OUFORT

County : COOS  
 Status : NON-CANCELLED  
 Certificate type: OR  
 Certificate date: 3/28/1935

Application: S 14782  
 Permit : S 10728  
 Certificate: 11113  
 Supercedes certificate: 0

BANDON, OR 97411

Related documents:

Remarks :

Source	Use	P/S	Priority	Quantity	Location	LOT/DLC	Status
GEIGER CR > FERRY CR	IR	P	10/15/1932	0.4000CFS	29 S 14 W 4 NESW		V
Rate: .75A Limit: F/MO AFT/acre/year Other limits: ; 6AF TOTAL							

Points of appropriations:	Use	P/S	Location	DLC/LOT	Acres	Status
	IR	P	29 S 14 W 4 NWSW		4.000	V

\*\*\* OREGON WATER RESOURCES DEPARTMENT \*\*\*

1/ 5/1994

Select by certificate 20828

Name: JOHN C WINDHURST

County : COOS

Application: S 20090

Status : NON-CANCELLED

Permit : S 15553

PO BOX 464

Certificate type: OR

Certificate: 20828

BANDON, OR 97411

Certificate date: 8/26/1955

Supercedes certificate: 0

Related documents:

Remarks :

Source	Use	P/S	Priority	Quantity	Location	LOT/DLC	Status
GEIGER CR > FERRY CR	IR	P	11/29/1943	0.4000CFS	29 S 14 W 4 NESW		V
Rate: 1/10 Limit: ,6;. AFT/acre/year Other limits: 75AF/30 DAYS							

Points of appropriations:	Use	P/S	Location	DLC/LOT	Acres	Status
	IR	P	29 S 14 W 4 NWSW		2.000	V
	IR	P	29 S 14 W 5 NESE		2.000	V

\*\*\* OREGON WATER RESOURCES DEPARTMENT \*\*\*

1/ 5/1994

Select by certificate 35720

Name: RONNY O HAGA

County : COOS  
 Status : NON-CANCELLED  
 Certificate type: OR  
 Certificate date: 2/28/1969

Application: S 31234  
 Permit : S 24615  
 Certificate: 35720  
 Supercedes certificate: 0

BOX 394  
 BANDON, OR 97411

Related documents:

Remarks :

Source	Use	P/S	Priority	Quantity	Location	LOT/DLC	Status
JOHNSON CR > PACIFIC OCEAN	IR	P	11/28/1956	0.1300CFS	29 S 14 W 9 NWNW		V

Legal description: 1630 FT S & 110 FT E FM NW COR, SWSW, S4

Rate: 1/10 Limit: .75 AFT/acre/year Other limits: FOR 30 DAYS; 6AF FOR AG; 1/80,2.5 TOTAL

Points of appropriations	Use	P/S	Location	DLC/LOT	Acres	Status
	IR	P	29 S 14 W 4 SWSW		0.500	V
	IR	P	29 S 14 W 4 SESW		0.800	V

\*\*\* OREGON WATER RESOURCES DEPARTMENT \*\*\*

1/ 5/1994

Select by certificate 13795

Name: E D & AGNES B WEBB

County : COOS  
 Status : NON-CANCELLED  
 Certificate type: OR  
 Certificate date: 7/ 1/1941

Application: S 18237  
 Permit : S 13898  
 Certificate: 13795  
 Supercedes certificate: 0

BANDON, OR 97411

Related documents:

Remarks :

Source	Use	P/S	Priority	Quantity	Location	LOT/DLC	Status
GETGER CR > FERRY CR	IR	P	6/28/1939	0.3000CFS	29 S 14 W 4 NESW		V
Rate: .1CF Limit: S/1A AFT/acre/year Other limits: F; .75AF/30DAYS; TOTAL 6AF							

Points of appropriations:	Use	P/S	Location	DLC/LOT	Acres	Status
	IR	P	29 S 14 W 5 NESE		3.000	V

\*\*\* OREGON WATER RESOURCES DEPARTMENT \*\*\*

1/ 5/1994

Select by certificate 20829

Name: BOHEMIA LUMBER CO. INC.  
 CULP-CREEK, OR 97427

County : LANE  
 Status : NON-CANCELLED  
 Certificate type: OR  
 Certificate date: 8/26/1955

Application: S 19945  
 Permit : S 20469  
 Certificate: 20829  
 Supercedes certificate: 0

Related documents:

Remarks :

Source	Use	P/S	Priority	Quantity	Location	LOT/DLC	Status
CULP CR/RES > ROW R	TM	P	6/11/1943	2.0000CFS	21 S 1 W 3 NESE		V
ROW R > C FK WILLAMETTE R	TM	A	6/11/1943	2.0000CFS	21 S 1 W 32 NWSW		V

Points of appropriations:

Use	P/S	Location	DLC/LOT	Acres	Status
TM	P	21 S 1 W 31 NESE		0.000	V
TM	P	21 S 1 W 32 NWSW		0.000	V



\*\*\* OREGON WATER RESOURCES DEPARTMENT \*\*\*

1/ 5/1994

Select by certificate 36624

Name: ERWIN RICHERT  
 ESTATE OF  
 BOX 232  
 BANDON, OR 97411

County : COOS  
 Status : NON-CANCELLED  
 Certificate type: OR  
 Certificate date: 3/30/1970  
 Application: S 35031  
 Permit : S 27437  
 Certificate: 36624  
 Supercedes certificate: 0

Related documents:  
 Remarks :

Source	Use	P/S	Priority	Quantity	Location	LOT/DLC	Status
UNN STR > JOHNSON CR	IR	P	6/ 9/1961	0.1300CFS	29 S 14 W 9 NWSE		V

Legal description: 2670 FT S & 180 FT W FM N1/4 COR, S9  
 Rate: 1/40 Limit: .3 C AFT/acre/year Other limits: RANB.;1/80,2.5 OTHERWISE

Points of appropriations:	Use	P/S	Location	OLC/LOT	Acres	Status
	IR	P	29 S 14 W 9 SWNE		5.300	V



\*\*\* OREGON WATER RESOURCES DEPARTMENT \*\*\*

1/ 5/1994

Select by certificate 39525

Name: ERWIN F RICHERT ESTATE  
 JESSIE A RICHERT, ADMINISTRATRIX  
 BOX 232  
 BANDON, OR 97411

County : COOS  
 Status : NON-CANCELLED  
 Certificate type: OR  
 Certificate date: 11/21/1973  
 Application: S 46963  
 Permit : S 35039  
 Certificate: 39525  
 Supercedes certificate: 0

Related documents:

Remarks :

Source	Use	P/S	Priority	Quantity	Location	LOT/DLC	Status
UWN STR > JOHNSON CR	IR	P	4/ 6/1970	0.1300CFS	29 S 14 W 9 NWSE		V

Legal description: 2670 FT S & 230 FT E FM N1/4 COR, S9

Rate: 1/40 Limit: .3 C AFT/acre/year Other limits: RANBERRIES; 1/80,2.5 ANY OTHER CROP

Points of appropriations:	Use	P/S	Location	DLC/LOT	Acres	Status
	IR	P	29 S 14 W 9 NENE		3.000	V
	IR	P	29 S 14 W 9 SWNE		2.000	V

10/27

FACSIMILE TRANSMISSION

TO: M. JOHN YOUNGQUIST  
1-503-672-5692

FROM: WEISHA MIZE, ALJ

RE: YOUR LETTER OF OCT. 23 RE WINDHURST RD. APPLICATIONS

JOHN: I am unable to tell from your letter whom you are working with in the Water Rights Section of WRD regarding the amendments or corrections to the Windhurst applications. I believe they would be the most appropriate person to send the corrected applications to the participants, as I have never received a copy and would have no idea what would be the right documents to pull from the application file or to distribute to the parties. Please ask whichever staff person you have been working with to make the distribution of the corrected ~~affidavits~~ to the appropriate parties,. If you would care to clue me in on which staff that might be, I'd Applications certainly appreciate it!

By the way, contrary to your recorded message, you cannot leave a message after the long beep. You just get that really awful fax noise. Thus, I'm sending you this fax after being thwarted by your voice mail!

Sorry about the 1st fax - I meant applications, not affidavits!

**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT

827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (503) 672-5692

RECEIVED  
OCT 21 1995  
WATER RESOURCES DEPT  
SALEM, OREGON

PROJECT MANAGEMENT

PERMITS/LICENSING

RESEARCH

PLANNING

October 23, 1995

Weisha Mize, Administrative Law Judge  
Oregon Water Resources Department  
158 12th Street, N.E.  
Salem, Oregon 97310

RE: Windhurst Road Applications R 69708 & 69654

Dear Ms. Mize:

As indicated in my correspondence dated October 3, 1995, the enclosed material is being sent to Rick Kruger, Reese Bender, Al Cook and John Drolet.

Mr. Gosson, P.E. and I propose two corrections to my correspondence dated October 3, 1995.

1. I have not enclosed the corrected applications as filed with the Oregon Water Resources Department (Department). We believe it best if the Department send the superseding applications to the various participants. Our copy is not the "official" copy as filed in the Department and we believe the review should be completed with each participant having a copy of the actual document as received by the Department.
2. The material contained herein is not the final design. It is the final concept, however, the participants may desire changes prior to investing in the actual final design and development of specifications. For example, the Department or the Oregon Department of Fish and Wildlife (ODFW) may desire a 120° V-notch weir in lieu of the proposed 90° V-notch weir.

It seems prudent to have the "final design concept" as described herein approved before proceeding with the detailed final design and specifications. I believe there is sufficient information provided to allow the Department and ODFW to make final recommendations. If additional information is needed, we will provide any specifics requested.

The original application was for a reservoir to be constructed on Bill Creek impounding up to 100 acre feet of water. ODFW objected to the construction of a reservoir within the channel of Bill Creek. The Windhurst Road Sub District examined their options and decided to divert water from Bill Creek to an off channel reservoir in the Geiger Creek Drainage. The cost of this option is extensive and the Sub District elected to maximize their storage opportunities at the selected sites.

Water will be pumped from Bill Creek to the Windhurst Reservoir. Water will then be delivered to the Bee Sting Reservoir by gravity flow and to several private reservoirs by a combination of gravity and pump systems. The delivery system beyond the Bill Creek diversion is not described in this correspondence. Delivery of water beyond the pumping from Bill Creek does not affect any natural drainage or water source.

Bill Creek Diversion:

**Pump Capabilities:**

Two pumps will be installed at the Bill Creek diversion. The primary reservoir fill pump will be a 100 Hp Turbine pump with a capability of pumping up to 2.0 cubic feet/second (cfs). This pump should function well between November and June each year.

The second pump will be a 50 Hp Turbine pump with a capability of pumping up to 0.75 cfs. This pump will work with the larger pump when Bill Creek flow allows up to 2.75 cfs to be pumped. When the flow of Bill Creek is less than 2.25 cfs but greater than 1.00 cfs, the smaller pump will deliver water to the storage facility. This pump should function from June to an unknown date when the flow of Bill Creek diminishes in the spring - summer.

One of the pumps will begin pumping during spring and summer storms when the flow of Bill Creek exceeds the minimum flow agreed upon with the Oregon Department of Fish and Wildlife.

The pumps are large because of the 304 feet elevation difference between Bill Creek and the Windhurst Reservoir. The water will be pumped approximately 3,900 feet through a buried pipeline.

**Pipeline:**

A 10 inch PVC pipeline approximately 3,900 feet in length will deliver water from the Bill Creek diversion to the Windhurst Reservoir. Delivery of water from Windhurst Reservoir to Bee Sing Reservoir, individual storage facilities and place of use will be by either gravity pipeline or pump systems.

**Fish Screening:**

The intake facility will have a mesh or slotted type "trash" screen to protect the pump intakes. The removable "trash" screens will have ½ inch openings.

Each pump intake will have a commercial fish screen with a 1/8 inch maximum opening, either circular or slotted. There will be at least 3 square feet of fish screen for each cubic foot per second of pump capability. The larger pump will have a minimum of 6 square feet of screen surface and the smaller pump will have a minimum of 2.25 square feet.

**Weir:**

A concrete base will be constructed across Bill Creek on a bedrock ledge. The base will be up to 6 inches above the existing bedrock base. The weir will consist of a 90 degree V-notch weir with a throat depth of 1.0 foot. The weir plate will be approximately 1.5 feet high by 3.5 feet across. When the flow of Bill Creek exceeds 2.50 cfs, water will flow above the weir

opening and across the weir plate. We anticipate the average fall/winter/spring flows to be five cubic feet/second, or more, at this location.

This type of weir was selected to better accommodate upstream and downstream fish passage. Flow through the weir should provide a good attraction flow and the structure is not too high to prevent migration throughout the winter at any flow. The weir is removable for two reasons. First, if during the initial operation it is determined that a different weir would be preferable, it will be easy to replace the "weir plate". Second, the "weir plate" may be removed to clean out silt buildup in the backwater that may occur during operation.

A staff gage will be placed on the upstream face of the weir plate. 0.00 will note the location of the weir crest and 1.00 will be the top of the weir. The staff gage will be in 0.01 of a foot increments.

The ODFW and Watermaster will be provided access to the weir location throughout the year.

#### Level Control Device:

An electronic level control device will be installed above the weir within the weir/pumping pool. This device will control the availability of each pump. The pumps will be used based on the following proposed flows of Bill Creek:

0 - 1.00 cfs	pumps may not operate
1.00 - 2.25 cfs	smaller pump may operate
2.25 - 3.00 cfs	larger pump may operate
3.00 - higher	both pumps may operate

Actual pump usage will depend on the Windhurst Reservoir level and the available flow in Bill Creek.

The District is aware of the May 22, 1964 minimum flow on the Coquille River as amended April 1, 1980. We are not familiar with any recent instream flow requests that the ODFW may have on Bill Creek or Bear Creek, however, it is not the intention to "dry up" Bill Creek at any time throughout the year.

We have visited Bill Creek on several occasions during the year. Some years, Bill Creek has little or no flow at the proposed pump site. Review of the chart above suggests that when the flow is 1.0 cfs, or less, pumping will not occur. We are also aware that the storage season may not begin until November 1 or later each year. We do not anticipate storing water until sufficient fall rains occur that will protect the anadromous fish needs and allow for storage to begin.

We also recognize that the "minimum" desired flow may vary from month to month. The level control device will be adjustable to allow seasonal variance in pump availability. The Sub District would appreciate being allowed to pump when sufficient rainfall has occurred to satisfy all demands on Bill Creek.

Measuring Devices:

In addition to the weir in Bill Creek, there will be a totalizing meter located on the pipeline at the point of diversion. In addition, each participant in the project will measure his/her water from the project.

All measurements will be in acre feet diverted.

Enclosed is a sketch showing how the diversion works will set along Bill Creek. When specific items are approved by ODFW and the Department, the final design plans and specifications will proceed. If the general scheme of things is acceptable, a contour map of the area where the pump station and weir location will be completed.

Clearing of the proposed Windhurst Reservoir has been initiated. The area is overgrown with the typical coastal brush and clearing is necessary to verify the original contour mapping. When the area has been cleared, the final dike location will be surveyed and staked. As the clearing progresses, either an island or peninsula, depending on the topography, is being left for future wildlife habitat. This was agreed upon during our meeting last October.

I will be at the National Water Resources Meeting through November 6, 1995. Please contact me if you have any questions or comments after November 6. We look forward to discussing the particulars with you in the near future.

Sincerely,

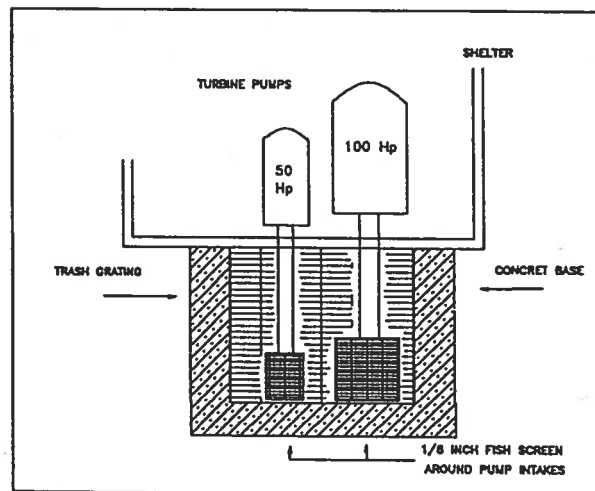
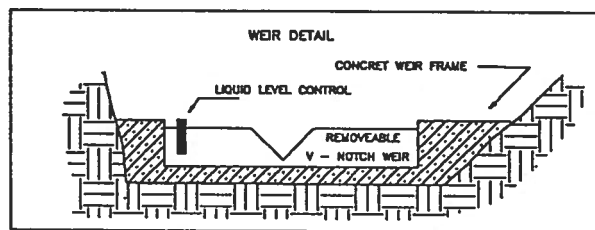
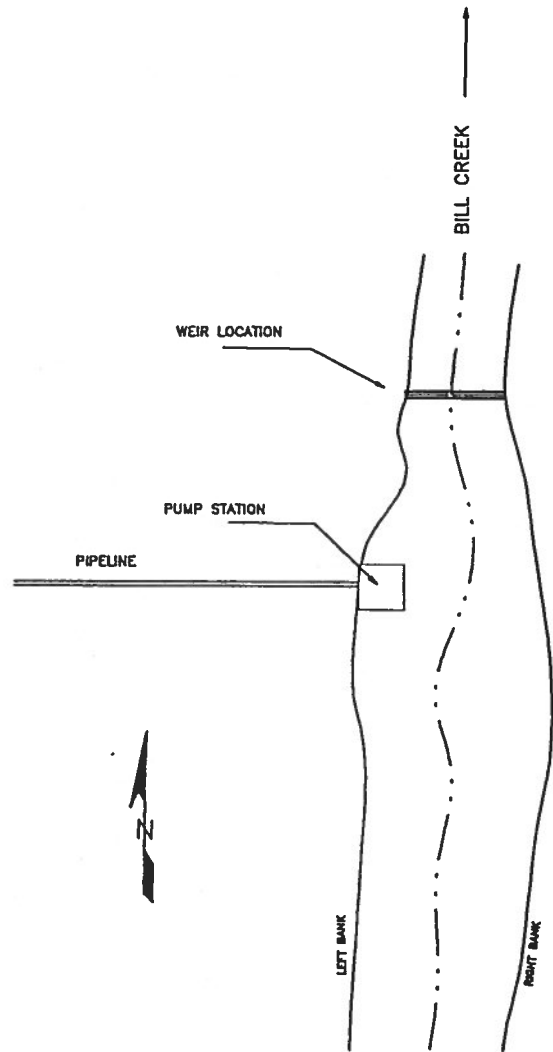
M. John Youngquist

cc: Ronnie Haga, Chairman  
Wayne Scherer  
Reese Bender, Biologist  
Rick Kruger, Biologist  
Al Cook, Regional Manager  
John Drolet, Watermaster, Dist. 19  
James F. Gosson, P.E.



### SKETCH MAP OF PROPOSED BILL CREEK DIVERSION

October, 1995



**M. JOHN YOUNGQUIST**  
WATER RESOURCES CONSULTANT

827 SE MOSHER  
ROSEBURG, OREGON 97470  
PHONE/FAX: (503) 672-5692

PROJECT MANAGEMENT

PERMITS/LICENSING

RESEARCH

PLANNING

---

October 3, 1995

Dick Bailey, Supervising Program Technician  
Oregon Water Resources Department  
158 12th Street, N.E.  
Salem, Oregon 97310

**RECEIVED**  
OCT - 5 1995  
WATER RESOURCES DEPT.  
SALEM, OREGON

RE: File No. S-69654 & R-69708

Dear Mr. Bailey:

Enclosed is a corrected map for the above referenced files as requested in Mr. Munks' letter dated August 7, 1995. The other concerns Mr. Munks had were addressed in previous correspondence.

As previously indicated, the sub district is in process of obtaining the required right of ways. They should be submitted to the Department by the end of the year.

Thank you for the extended time to respond. My printer is not yet discussing maps with the appropriate CAD program, however, we will succeed. The map was plotted on Mr. Gosson's plotter.

Please contact us if you need additional information.

Yours truly,

  
M. John Youngquist

cc: James F. Gosson, CWRE  
Ronnie Haga, Chairman

*file copy*

*Applications*

Oregon

22 September, 1995

John Youngquist  
827 SE Mosher Ave.  
Roseburg OR 97470

WATER  
RESOURCES  
DEPARTMENT

RE: Windhurst Road Applications R69708 and 69654

Dear Mr. Youngquist:

As I had not yet received any indication from ODFW that they are withdrawing their protest against Mr. Scherer's applications, I contacted ODFW staff Rick Kruger at 229-6067, Ext. 437, who is filling in for Stephanie Burchfield while she's out on maternity leave.

According to Mr. Kruger, who discussed this with Reese Bender, the proposed project has changed dramatically since it was first applied for (9/88), from a major in-channel dam and "diversion" (34.8 cfs) to many small, off-channel reservoirs, a small (1-foot high) weir for a pump and an unknown (to ODFW) diversion rate. ODFW does not have a copy of the most recent application (6/94) and so does not have the specifics on the above revised project(s), but is very pleased with the switch to off-channel and the small pump diversion and is anxious to sign off on the proposal, once it sees the final proposal in writing and agrees on the specifics of the control structure and minimum bypass flow.

Mr. Kruger reports that you and Reese Bender met on site around October 1994, at which time you discussed and agreed upon conceptual matters only. At this meeting, Reese reports that the parties agreed on the location of the low weir but not on the specifics of the control structure. ODFW is waiting to receive some sort of written final design proposal/drawings. Mr. Kruger notes that since ODFW hasn't seen the latest application either, he would ask that you submit a complete package (new/revised application and final design proposal/drawings), showing/describing the entire project and how it would function.

Mr. Kruger further noted that of particular concern is the maximum diversion rate of the pump facility and a "minimum flow" at the weir, below which the pump would not operate and no diversion would occur. He understood from Reese that ODFW and you agreed in concept to setting some minimum flow, but that you either did not discuss or agree upon an amount. Maximum diversion rate will be determined by the capacity of the pump. ODFW needs to see the specifics on these and come to agreement on the minimum flow amount before it can "sign off" and withdraw its protest.



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

I look forward to seeing this matter brought to a close, as I'm sure all the parties do. If you would be so kind as to provide me with a copy of the documentation you send to ODFW, I would appreciate it. I will expect to receive a copy of ODFW's approval and of its withdrawal at some later time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Weisha Mize', written in a cursive style.

Weisha Mize  
Administrative Law Judge

cc: John Drolet, Watermaster, Dist. 19  
Steve Applegate, WRD, Salem  
Rick Kruger, ODFW, Portland

256  
VTM  
8/29/95  
8:30A

# facsimile

TRANSMITTAL

**to:** Dick Bailey, Administrator  
**fax #:** (503) 378 - 8130  
**re:** Filcs No. 69654 & R 69708  
**date:** August 28, 1995  
**pages:** 1, including cover sheet.

Dear Mr. Bailey:

Thank you for your time spent with me last Friday, August 25, 1995. In answer to Mr. Munks' letter dated August 7, 1995, I would offer the following comments:

1. The material and letter were not available until August 22, 1995, because the CWRE was on vacation when the material arrived. This is the reason for the response this date.
2. The applicants are pursuing the necessary rights of way for the project. The easement from Rogge Forest Products is on file, the easements from the Coos County Highway Department, City of Bandon and Lowell & Mary Meyer are in progress. We hope the various easements can be obtained during September and October. In any event, water will not be conveyed across those lands until easements are obtained.
3. The Department is correct on the Point of Diversion location. The map will be modified to correctly show the Point of Diversion and all the reservoirs will be appropriately labeled as requested. We estimate the corrected map will be submitted no later than September 13, 1995.

Please contact either James F. Gosson or myself if you have any questions or if this proposed schedule is not satisfactory.

**cc:** James F. Gosson, CWRE  
Ronnie O. Haga

From the desk of...

M. John Youngquist  
Consultant

827 SE Mosher  
Roseburg, Oregon 97470

(503) 672-5692  
Fax: (503) 672-5692



# COMPLETENESS DETERMINATION CHECKLIST

Complete

Application #	Review Date	Reviewer Initials
5 - 69654	8 / 7 / 95	MICHAEL

**A checkmark (✓) indicates that the item is incomplete or defective.**

- 1. Examination fees. Refund \$999 ?
- 2. Name and address of the applicant, and title if applicable. lrr 208.2 \$498
- 3. Source of water. 10.0 cfs \$55.0
- 4. Use of water. 1048
- 5. Amount of water.
- 6. Location & description of delivery system.
- 7. Name(s) and address(es) of the owners of any lands involved, but not owned by the applicant.
- 8. A statement declaring the existence of written authorization or easement permitting access to lands involved, but not owned by the applicant.
- 9. Proposed dates of beginning and completion of construction, and complete application of water.
- 10. If for municipal use, the present population to be served and expected future water requirements.
- 11. If for mining use, the type of mines and methods of supplying & utilizing the water.
- 12. If for a reservoir:
  - The height of the dam and the storage capacity.
  - The area submerged and the maximum depth.
  - The construction method (earthfill, concrete, flashboard, etc.).
  - A description of the outlet conduit and spillway.
- 13. If for groundwater, the horizontal distance from the well to the nearest surface water source (if within one mile), and the difference in land surface elevation between them.
- 14. If the application was made under HB 2107:
  - Name and address of each adjacent property owner and verification that each owner has been mailed a copy of the completed notice.
  - A description of the proposed water used and related project, the condition it will address, and the benefits that are expected to result from the project.
  - The number of reservoirs per application is appropriate as per OAR 690-11-049 (3)(b)
- 15. An oath that the application information is true and correct.
- 16. The signature of the applicant(s).
- 17. A satisfactory map of the proposed POD & POU.
- 18. A Land Use Information Form or receipt signed by appropriate planning official.





TO: MARIE LICARI, FISCAL

DATE: 8/8/95

FROM: Michael Munks  
Authorized Examiner

SUBJECT: Request for Refund Check

Please refund \$ 999 to Windhurst Road Water Corporation  
file no. S-69654, receipt no. 55935. These funds are  
refunded due to:

- Application rejected
- Application withdrawn
- Excess fees collected for application
- File closed
- Other: \_\_\_\_\_
- Protest Filing Fees

0102C

*842000*

AUG 8 1995

August 7, 1995

JAMES F GOSSON  
580 S STATE ST  
SUTHERLIN, OR 97479

RE: Windhurst Road SubDistrict applications #S-69654 and R-69708

Dear James Gosson,

The Water Resources Department is currently reviewing your application for water use. Preliminary review indicates the following items were not included with your application:

- ▶ A signed statement that you have written authorization or easement permitting access to lands involved in the proposed use, but owned by others. (The file has an easement from Rogge Forest Products but not from Coos County Highway Department, The City of Bandon, nor Lowell and Mary Meyer.)
- ▶ A map showing the place where water is to be used and the point where water will be diverted. The map must identify the township, range, section, and nearest quarter-quarters where the water will be diverted and used. (The map shows the point of diversion to be in the NE 1/4 SW 1/4, Section 3, but states that the point of diversion is in the NW 1/4 SW 1/4. Please clarify. Also, please label the individual reservoirs.)

In order to expedite the processing of your application, we request that you submit these items by August 28, 1995. We have enclosed a stamped envelope for your use.

Should you have any questions regarding your application or the required materials listed above, please call me personally at 1-800-624-3199 extension 256.

Sincerely,

Michael Munks  
Completeness Team

enclosure

cc: general correspondence



---

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

# TECHNICAL REVIEW CHECKLIST

11/4/94

1. Application: \_\_\_\_\_
2. Review Date: \_\_\_\_\_

S indicates information was completed or adequately addressed.  
 U indicates information is needed, or incomplete, or inadequately addressed  
 N/A indicates Not Applicable

SUMMARY	
_____	Land Use
<u>NA/yes/no</u>	Substantial SW interference w/GW (if yes, see results of surface water availability analysis)
_____	Conflicts <i>Copy Plat card(s), copy maps of other affected wk's. Staple to this sheet.</i>
_____	Water Availability ( <u>1603</u> ) <small>(Water Availability Sub-basin#)</small>
_____	The application, map and supporting data are complete and free of defects.
<u>yes</u> <del>NA</del>	A TMDL letter has been received for this source or tributary. If yes, the period of use has been adjusted.

3. \_\_\_\_\_ The applicant has certified that the information provided in the application is an accurate representation of the proposed use and is true and correct to the best of their knowledge. An oath is required before a permit is issued regardless of the application's priority date.

5. \_\_\_\_\_ Application fees:

Examination fee:	\$ _____
Recording fee:	\$ _____
TOTAL REQUIRED	\$ _____
TOTAL SUBMITTED	\$ _____
AMOUNT DUE prior to issuance of permit	\$ _____
AMOUNT OVERPAID refund due applicant	\$ _____

FEE NOTES:

6. \_\_\_\_\_ Proposed dates of beginning and completion of construction, and complete application of water.

7. \_\_\_\_\_ A satisfactory map of the proposed place of water use prepared by a certified water right examiner, unless exempt under OAR 690-14-150(3). (A CWRE map is not required for applications filed before November 9, 1987.)

8. \_\_\_\_\_ A written copy of the legal description of the property on which the water is to be used.

9. \_\_\_\_\_ A copy of written authorization, contract or easement permitting access to the land or reservoir not owned by the applicant.
10. \_\_\_\_\_ No statement of ownership was required for applications filed before August, 1990.
11. \_\_\_\_\_ The proposed use is not restricted or prohibited by statute.
12. \_\_\_\_\_ The source of water is not withdrawn from appropriation by order of the State Engineer or Water Resources Commission, or legislatively withdrawn under ORS Chapter 538.

13. 5 One or more of the use(s) are allowed under the basin program; OAR 690 - 517-601(8). WF  
initials
- Uses applied for: Irrigation
- Discussion: is any portion of this  
the supplemented to 1269708?

**Water Quality Check**

14. N/A DEQ has provided notice to the WRD concerning limitations of appropriation from surface water sources designated as TMDL streams. This application does not propose to appropriate water from a source that has been identified by the DEQ as a TMDL stream.
15. N/A This application proposes to appropriate water from a source that has been identified by the DEQ as a TMDL stream and has been limited to months when water quality will not be impaired.

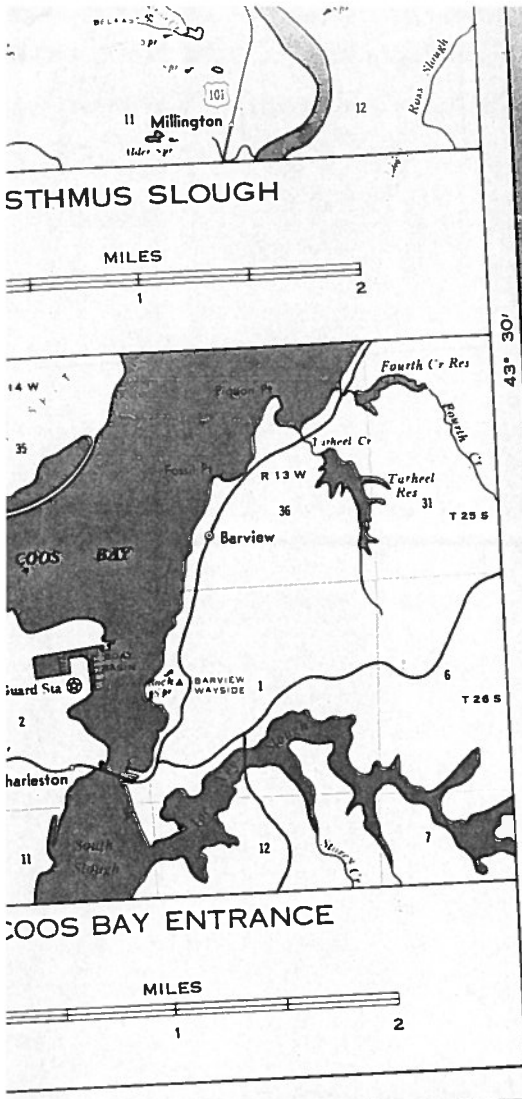
**Land Use Compatibility:** As expressed by the Planning Department of \_\_\_\_\_.

15. \_\_\_\_\_ The land uses to be served by proposed water uses (including proposed construction) are allowed or are not regulated by the local comprehensive plan (ordinance section \_\_\_\_\_).
16. \_\_\_\_\_ The land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals which have been obtained.
17. \_\_\_\_\_ The local government was notified, and sent no comment pursuant to the rules at the time; land use was presumed in compliance per such statement printed on the application.

**For reservoir applications:**

18. \_\_\_\_\_ Plans, specifications and supporting information for the dam and impoundment area must be approved by dam safety before a technical review is issued. Plans and specifications are not required for dams less than 10 feet in height and store less than 9.2 acre-feet. (OAR 690, Div 20) t:\chk6 11/4/94





23

24

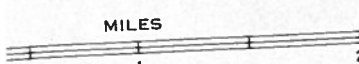
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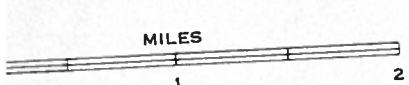
29

STHMUS SLOUGH



43° 30'

COOS BAY ENTRANCE



11 August, 1993

M. John Youngquist  
Water Resources Consultant  
827 SE Mosher Ave.  
Roseburg OR 97470

WATER  
RESOURCES  
DEPARTMENT

RE: Applications 69708 and 69654, Windhurst Road Water Company

Dear Mr. Youngquist:

Thank you for your letter of August 6, 1993, updating me on the progress of the above-referenced applications. I have forwarded a copy of your letter and my response to the Water Rights Section staff as the application files are in their possession and they will want to make the necessary notations to the files when the applications are returned to Mr. Scherer for correction.

Let us hope, given the amount of work the parties have put into this, that the outcome will be positive and that the end result will be ODFW's withdrawal of their protests against these applications. Thanks again for continuing to keep me informed.

Sincerely,



Weisha Mize  
ALJ

cc: Steve Brown  
✓ Reed Marbut



3850 Portland Rd NE  
Salem, OR 97310  
(503) 378-3739  
FAX (503) 378-8130



MR. JOHN YOUNGQUIST  
WATER RESOURCES CONSULTANT

RECEIVED

AUG - 6 1993

WATER RESOURCES DEPT.  
SALEM, OREGON

827 SE MOSHER AVE.  
ROSEBURG, OR 97470  
PH: (503) 672-5692

RESEARCH  
PLANNING

PERMITS/LICENSING  
PROJECT MANAGEMENT

August 3, 1993

Weisha Mize, Hearings Referee  
Oregon Water Resources Department  
3850 Portland Road, NE  
Salem, Oregon 97310

RE: Windhurst Road Applications 69708 & 69654

Dear Ms. Mize:

I am writing on behalf of the Windhurst Road group with a progress report and a request. Wayne Scherer met with Steffanie Birchfield and Al Mirati last month. They jointly looked at the proposed off channel reservoir development. We need to take the next step now and submit a corrected application describing the full development for Oregon Department of Fish and Wildlife's review. I believe we now have an acceptable project. At least the concept was well received.

The request consists of returning the pending applications to Wayne Scherer for correction. I estimate the Engineer will need 60 days to review the material and make the necessary changes. This will also give us enough time to review the project with the local biologist and Ms. Birchfield.

Thank you for all your patience. I believe we can see the light at the end of the tunnel. Please contact me if you have any questions.

Yours truly,

  
M. John Youngquist

M. JOHN YOUNGQUIST  
WATER RESOURCES CONSULTANT

J. Drown  
FYI

RESEARCH  
PLANNING

PERMITS/LICENSING  
PROJECT MANAGEMENT

827 SE MOSHER AVE  
ROSEBURG, OR 97470  
PH: (503) 672-5692

WATER RESOURCES CONSULTANT  
SALEM, OREGON

February 8, 1993

Oregon Water Resources Department  
3850 Portland Road, NE  
Salem, Oregon 97310

Attention: Weisha Mize, Hearings Referee

RE: Status Report, Applications R-69708 & 69654

Dear Ms. Mize:

I am responding to your letter of January 29, 1993, on behalf of Wayne Scherer and the Windhurst Road Water Corporation. There have been several developments since the last report submitted in May, 1992.

First, the cranberry growers in the Bandon area are forming a water control district to allow participants to better develop the water resources in the Bandon area. The Windhurst Road Water Corporation will become a sub-district to the primary district. This will better allow the development and distribution of the water under the above referenced applications.

Second, the engineering for the "off channel" storage of water from Bill Creek is ongoing. Since May, a topographic map has been developed and the storage site has been selected. The engineer is now finalizing the initial design of the reservoir, preparing a cost estimate and completing the pipeline location proposal. Once these activities are complete the applications will be modified accordingly and submitted for approval.

Third, there have been discussions with the City of Bandon and Oregon Department of Fish and Wildlife (ODFW). The city manager was informed of the off channel storage from Bill Creek during a discussion Thursday, February 4, 1993. Since the reservoir will be located within the boundaries of Bandon's watershed, care will be given not to affect the City's supply.

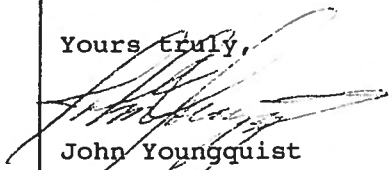
The ODFW has assigned Al Mirati to coordinate cranberry farmer's activities within the Bandon area. We will be contacting Mr. Mirati within a month to review the diversion works from Bill Creek and location of the proposed reservoir.

Finally, Howard Daggett has made a field inspection of the site and offered suggestions on reservoir construction. Howard visited the site on August 20, 1993, after which the engineer completed the topographic mapping. The aerials had been previously flown, however, the ground control was not complete.

This project is progressing very well at this time. We anticipate requesting the applications be returned in the near future for correction.

Please contact me if you have any questions, or comments.

Yours truly,

  
John Youngquist

cc: Wayne Scherer  
John Drolet

MAINT 4C

September 25, 1991

Weisha Mize  
Hearings Referee  
Water Resources Department  
3850 Portland Road N.E.  
Salem, Oregon, 97310

Dear Weisha,

Another update on our applications R-69708 and R-69654, although a little late.

We have heard absolutely nothing from the city on the watershed. However, a measuring device is now in place on our farm, just above our pumping station. John Drolet informs me that the preliminary work is completed and another measuring device will be operating in about thirty days at a point near where Geiger Creek meets Ferry Creek. I'm positive that data taken at these sites will show that there is a definite water need problem, not only for the future of the city but we cranberry growers on these two creeks.

As indicated in the last update, we have instructed our water right examiner, Jim Gossen, we wish to go ahead on our applications, Jim has been on vacation, but we will be spending some time with him next week when he will be with us on an educational tour for the Water Resources Department Commission of cranberry farms October 3.

We will also be starting our cranberry harvest next week. Our operation will take our harvest into early November, then I have a week long Ocean Spray Board meeting in Massachusetts, followed closely by Thanksgiving, so I seriously doubt I personally will have time to make major contributions towards our project.

Thanks again for your patience and understanding.

Sincerely,

*Wayne*  
Wayne R. Scherer

cc: Greg Robart  
John Drolet  
Jim Gossen

Drown

July 2, 1991

RECEIVED

Weisha Mize  
Hearings Referee  
Water Resources Department  
3850 Portland Road N.E.  
Salem, Oregon, 97310

JUL 05 1991  
WATER RESOURCES DEPT.  
SALEM, OREGON

Dear Weisha,

There are several things that have happened since my last update on our applications R-69708 and R-69654, but I'm unsure how they may affect our applications.

I had a telephone call from Steve Brown of your office inquiring about the status of our application, and I informed him we were waiting to see what direction the City of Bandon was headed. Steve wondered why I couldn't get the city to move, and I suggested to him that bureaucracy moves at its own pace. At this point I'm sure he indicated he would write a letter to the city inquiring about their intentions with a copy to be sent to us. As of today, we have not received a copy of any letter.

One of our group told me that very recently the ODFW had filed for a minimum stream flow on Ferry Creek - the city's water supply. I also understand our city manager, Ben McMakin, is quite upset about this new development. I have not spoken to Ben personally, nor have I seen any documents verifying that the ODFW has made any application, although our Oregon Cranberry Farmers Alliance is on your departments mailing list.

We have also instructed our water rights examiner to review our applications, and we hope to be able to procede with them in the near future.

In addition, we have been heavily involved in several other water possibilities with our Farmers Alliance to supply the necessary water to sustain and allow expansion of our cranberry industry here on the South Coast. We hope that one or more of these projects may come to fruition.

I am also sending along the Ferry Creek Dam proposal that I mentioned to you last year. I would appreciate your returning it to me when you have finished reviewing it.

Thanks again for your time and understanding.

Sincerely,  
*Wayne*  
Wayne R. Scherer

cc: Greg Robart  
John Drolet

July 2, 1991

Applegate

Weisha Mize  
Hearings Referee  
Water Resources Department  
3850 Portland Road N.E.  
Salem, Oregon, 97310

RECEIVED  
JUL 05 1991  
WATER RESOURCES DEPT.  
SALEM, OREGON

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Thanks again for your time and understanding.

Sincerely,

*Wayne*  
Wayne R. Scherer

cc: Greg Robart  
John Drolet



69708



**OREGON CRANBERRY FARMERS' ALLIANCE**

POST OFFICE 1737 • BANDON, OREGON 97411

*cc: Young*  
**RECEIVED**

APR 10 1991

WATER RESOURCES DEPT.  
SALMON, OREGON

*John  
what is this  
about?  
6*

William H. Young, Director  
Water Resources Department  
3850 Portland Rd. N.E.  
Salem, OR 97310

Dear Sir:

It now appears that when a grower applies for a permit for supplemental water on lands with existing water rights, and the amounts appropriated under the established water rights are greater than the amount granted under a new permit, because of a stipulation in the new permit, it will reduce and limit the amount allowed under earlier certified water rights.

That stipulation is:

" The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows:"

In fairness to the farmer, applicants should be fore-warned of this pitfall that their existing rights will be reduced when applying for additional water on land previously filed on.

Also, applicants who have been granted permits with this limitation included should be apprised of the consequences of this clause and allowed to either withdraw or amend their permits to preclude reducing their established rights.

Your comments would be appreciated.

Sincerely,

*WAYNE R. Scherer*

Wayne R. Scherer  
Chairman, Water Committee  
OCFA

cc: Bill Bradbury  
Walt Schroeder  
Gary Ball  
Randy Moore

**RECEIVED**

APR 24 1991



## STATE STATIONARY

Wayne R. Scherer, Chairman  
Water Committee  
Oregon Cranberry Farmers' Alliance  
P.O. Box 1737  
Bandon, Oregon 97310

Dear Mr. Scherer:

Reference is made to your letter of concern received at this office on April 10. I gather from the letter that your group is concerned that wording contained within permits that are being issued may adversely affect existing water rights.

Specifically, your concern appears to be a perception that wording contained within a permit which has recently been issued for supplemental water use may diminish the duty of water of an existing primary water right.

The offending phrase identified in your letter was:

"The amount of water diverted for CRANBERRY OPERATIONS, together with amounts secured under any other rights existing for the same lands, is limited as follows:"

If I am correct in my assumption of your concern, I regret that this somewhat ambiguous wording may have heightened your level of anxiety.

It is not the intent of this department to arbitrarily limit existing rights through any form of subterfuge. As regards the diminishment of a water right, the Department recognizes the rights of a water right certificate holder to due process under law.

In matters regarding the diminishment of a water right, Oregon's statutes on administrative law recognize the owner of a water right's entitlement to:

- a. specific notification of intent,
- b. the right to an administrative hearing,
- c. the right to be represented by legal counsel,
- d. the right to testify on your own behalf, and
- e. the right to present pertinent evidence.

All of these measures are intended safeguards for your water rights.

If I have not correctly interpreted your concerns or should you have additional questions then please get back in touch.

Sincerely,

William H. Young  
Director

*cc: Water Rights Section  
cc: Randy Moore / The Droplet*

April 15, 1991 4/25/91 scb

Weisha Mize  
Hearings Referee  
Water Resources Department  
3850 Portland Rd. N.E.  
Salem, Oregon, 97310

RECEIVED

APR 17 1991

WATER RESOURCES DEPT  
SALEM, OREGON

*Copies to  
each file,  
please  
[Signature]*

Dear Weisha,

On an update report on applications R-69708 and R-69654, I am disappointed in not being able to report significant progress, but at the same time pleased to report some progress is being made in other areas that may have a large impact on everything.

Although I have not heard from Ben McMakin, Bandon City Manager, directly, other sources have indicated several things have happened. Ben and the acting Water Master, Gary Ball, have met several times and looked at sites to locate gaging stations, one of which will probably be installed at or nearby my pumping station point of diversion, and possible dam locations for which the city has long standing permits. Gary and I have also looked at three possible dam sites on Geiger Creek that could be built on a joint effort with our cranberry group and the city. Additionally, Bandon has appropriated \$12,000 to help fund re-establishment and maintaining the Water Master's office in Coquille. The Water Master's office would again be working at building a real data base for creek flows in this area, including Geiger Creek and Bill's Creek, that our group, other cranberry growers and other water users would be able to access for real numbers to use in our long running battles with ODFW on water rights in this area. Obviously, all these pieces are coming together slowly, but I can honestly say that we are making progress.

It is unfortunate that the ODFW has taken a position that would ultimately close down this state to any kind of economic growth or expansion.

If any information passes through your office that would be of interest or help to us, we would appreciate hearing from you. Until my update in June,

Best Regards,  
*Wayne*  
Wayne R. Scherer

Randy Moore  
John Drolet  
Gary Ball  
Greg Robart



## Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

April 7, 1989

William R. Blosser  
Chairman, Water Resources Commission  
3850 Portland Road NE  
Salem, Oregon 97310

Re: Public Interest Review of Applications R-69708 and 69654 to Store and Use Water From Bill Creek, Tributary to Bear Creek and Coquille River for Cranberry Irrigation, Temperature Control, Flood harvesting and Irrigation, Windhurst Road Water Corporation, Coos County.

### Background

The Oregon Department of Fish and Wildlife (ODFW) has reviewed an application by Windhurst Road Water Corporation to store up to 100 acre feet of water in a reservoir with a 25 foot high dam on Bill Creek a tributary to Bear Creek. The proposed project is located approximately 1.5 miles upstream from the Bill Creek confluence with Bear Creek in the lower Coquille Basin. Bear Creek flows northwest to the main stem Coquille River, five river miles upstream from the ocean. Fish present in Bill Creek include coho, winter steelhead, and resident and anadromous cutthroat trout. All of these species spawn and rear throughout the eight mile distance to the headwaters of Bill Creek.

### Life History of Steelhead and Cutthroat Trout in Bill Creek

#### Coho

Adult coho salmon migrate from the ocean and enter Bill Creek in early November to spawn. This spawning throughout Bill Creek continues up to mid-February. Eggs incubate in coho redds or nests and emerge through early April. The young coho remain in the stream until the following year when out migration as smolts occurs from March through early June.

### Winter Steelhead

Adult steelhead migrate from the ocean and enter Bill Creek from November through March. Spawning occurs throughout the stream until complete by May. Young of the year steelhead begin emerging from their gravel redds in early April and emergence continues through late June. The juveniles may migrate to the ocean as smolts after their first year in fresh water or remain in the Bill Creek-Coquille system for up to three years before smolting. The out migration of steelhead smolts occurs from March through mid-May.

### Cutthroat Trout

Beginning in late October, adult sea-run cutthroat trout enter Bill Creek via the Coquille River and Bear Creek. This spawning migration continues until late February and fish spawn through May. The young cutthroat trout emerge from redds from March through June. Like steelhead, juvenile cutthroat trout may migrate to the ocean after their first year in fresh water or may remain in fresh water for up to three years before migrating. Out migration of cutthroat smolts occurs each spring from March through mid-May.

### The Project Proposal

The following is a brief description of proposed design and operating conditions for the proposed reservoir.

### Operation

1. Begin filling impoundment March 1. Maintain optimum stream flow below the impoundment. Bear Creek optimum stream flow for March to May is identified in the South Coast Basin Report (Oregon Game Commission, 1972). When Bill Creek flows are not adequate to satisfy Bear Creek minimum flows, then reservoir operation would allow 80% of the in flow to pass downstream and 20% would be retained in storage.
2. While filling, elevation of the dam structure (stop logs) will be increased in the morning and operator will assure dam is spilling water by evening to allow juvenile fish passage during dark.
3. From June 1 to June 30, the impoundment will be full. Outflow from the reservoir storage will equal inflow.
4. From June 1 to October 1, some water will be discharged from the reservoir to reduce downstream water temperatures.
5. From August 1 to October 1, water stored to augment stream flow will be added to inflow and discharged evenly over the 60 day period. The amount discharged will be 20% of the highest stored level.



6. From October 1, to completed draw down (no later than November 15), downstream discharge will be via the fishway to allow upstream movement of sea run cutthroat trout.
7. By November 15, all obstructions (stop logs) will be removed to allow free passage of adult migrating salmonids.

Oregon Department of Fish and Wildlife Questions and Concerns

The following adverse effects of this project have not been resolved through preliminary design or proposed operational conditions.

1. Bill Creek is presently undiverted and its natural stream bed and riparian habitat is in good condition for salmonid rearing. The reservoir will flood and destroy habitat in its basin.
2. Eggs deposited in stream channel redds within the reservoir area during the winter months by spawning coho and steelhead will not be hatched by March 1, when reservoir storage begins.
3. The project may provide summer rearing habitat for salmonids thereby benefiting the fishery. These assumed benefits are in question. For example, if lack of summer rearing pools were determined to limit Bill Creek juvenile salmonid (parr) production, creation of additional instream rearing ponds might enhance production, but ODFW has not established that summer rearing habitat is limiting Bill Creek coho production. It is more likely that winter habitat is limiting smolt production in Bill Creek. Any increased production of summer parr would likely be lost because of insufficient habitat to support them through the winter and early spring, especially following draw down of the reservoir and prior to the smolt out migration. (Tom Nickelson, ODFW Research Biologist, personal communication). A thorough inventory of summer and winter habitat in the watershed is needed to evaluate the relative value of the increased summer rearing area before we could assume benefits. A model to inventory and describe anadromous fish fresh water habitat is being developed by Department research biologists. In the future, the model could serve to quantify and document Bill Creek habitat needs. Until more information is available which identifies factors limiting anadromous fish production in Bill Creek, best habitat management practices dictate conserving and protecting existing habitat. Lacking this information, approval of the proposed project poses risk of habitat degradation and fish production loss.
4. Since adult steelhead may migrate into Bill Creek as late as May, a fish laddering facility to surmount the proposed 25 foot high dam would be required to satisfy fish passage requirements (ORS 498.268). Ladder

*done by  
consultants*

operation will not be feasible while the reservoir is filling. Additionally, hydrological information is not available to assure proper flows for ladder operation during the summer full pool period. Project engineers envision a 25 foot high dam with stop logs. Plans call for incrementally removing stop logs throughout the summer as the reservoir is drawn down with the last log removed to stream grade by November 15. The applicant has not submitted plans of how fish passage facilities would be designed, integrated and operated properly with this stop log removal schedule.

*after WRC*  
5. To date, the applicant has not submitted hydrology information to show that the reservoir will fill to supply downstream (Bear Creek) flow objectives. The applicant has not described how the project will be operated to release the quantities of flow needed to meet the downstream flow objectives.

*after WRC*  
6. Proper reservoir operation is a concern. The reservoir will be located in a canyon remote from the main access road and operators must walk in one half mile down a steep, muddy trail to reach it. Reservoir operations must be followed faithfully to assure any salmonid production within the reservoir. For example, proposed permit conditions specify "August 1 to October 1, water stored to augment stream flow will be discharged evenly over the 60 day period. This amount will be 20% of the highest stored level." In addition, stop logs would need to be carefully attended to assure water flow over the logs or through the fishway to facilitate unrestricted fish movement over the dam. Fluctuating reservoir water levels makes this difficult to achieve. Inadvertent mistakes or deviations from reservoir operations protocol should be expected.

*after WRC*  
7. Water temperature changes resulting from the proposed Bill Creek water impoundment is a concern. The project proposes to store 100 acre feet of water. Reservoir bottom contours, water depths, surface area and resultant water heat gain is unknown. Evaluating and describing these heat gain characteristics in the reservoir is important in assessing impacts on impounded fish and also in describing the effect of thermally altered released water on downstream fish. The project proposes to release summertime augmentation flows to improve habitat but summer flows and temperatures available for release are not quantified.

8. The project proposal is not consistent with ODFW Fish Management Plans. ODFW Steelhead Management Plan (July 1986), emphasizes habitat protection, rehabilitation and enhancement to protect wild stocks of steelhead. Oregon's Anadromous Salmon and Trout Management Plan (Sec I.F-16) encourages efforts by resource management agencies to minimize habitat losses, and to identify various land use activity threats. The ODFW South Coast Basin Plan (Sept 1988, Draft) expresses the need to



WRC  
April 7, 1989  
Page 5

proceed with habitat enhancement projects only in cases where limiting factors are identified (emphasis added) and to concentrate efforts on habitat protection versus habitat enhancement. Until more is known about the effects of project at hand, maintaining existing habitat is most consistent with current ODFW management direction.

The Oregon Department of Fish and Wildlife appreciates the opportunity to comment to the Water Resources Commission in this matter. In view of the above uncertainties the Oregon Department of Fish and Wildlife cannot recommend construction of this project as proposed in the Water Resources Department staff report.

Sincerely,

*Nancy M. MacHugh*

Nancy M. MacHugh  
Chief  
Habitat Conservation Division

c Young (WRD)

RECEIVED

DEC 13 1990

December 12, 1990  
WATER RESOURCES DEPT.  
SALEM, OREGON

Weisha Mize  
Hearings Referee  
Water Resources Dept.  
3850 Portland Road N.E.  
Salem, Oregon, 97310

Re: Applications R69708, 69654

Dear Weisha,

At the Bandon City Council meeting last week a Geiger Creek Study Team was formed to review several issues within the watershed, including our request for a modification of the closure order.

Last weekend, several of these people made a preliminary inspection of the area of interest. At a meeting last evening, Pat Watson and Lee Sutton of the City Council; Ben McMakin, City Manager; Ron Haga, Fred Richert, and myself met to review and explain our situation and circumstances to date.

We will spend time on a coming weekend together in the area looking at possible storage sites. Ron, Fred and I feel that our proposal was well received, and that in the near future we will be asking for assistance to do whatever is necessary to modify the closure order to allow for storage and winter pumping from Geiger Creek.

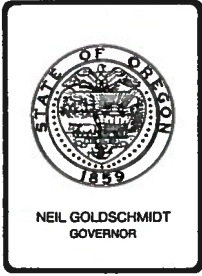
Additionally, we will be meeting with Gary Ball, W.R.D.; and Reese Bender, O.D.F.W.; next Tuesday as part of the Oregon Cranberry Farmers Alliance. The purpose of this meeting is to establish goals agreeable to both O.D.F.W. and O.C.F.A. concerning creeks and streams used by our cranberry industry, and how we can achieve those goals. Obviously, the outcome of this meeting may have significant impact on our individual case.

I will mark my calendar to provide you with a status update about February 14. I hope you have a Happy Holiday Season.

Sincerely,

*Wayne*  
Wayne R. Scherer

cc: Jake Szramek  
Greg Robard  
Ben McMakin  
Jim Gossen



## Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-3066

July 13, 1990

Wayne Scherer  
Windhurst Road Water Corp.  
PO Box 503  
Bandon, OR 97411

RE: Request for Status Update, Applications R69708, 69654

Dear Wayne:

You last wrote in May indicating that a special city council meeting was scheduled for May 15 (copy enclosed) regarding your proposal to store water in the Geiger Creek watershed. This meeting was to be the determining factor in whether you would be amending your applications or pursuing them as originally submitted.

I have not heard from you since that time. Please get back to me by letter by the end of July and let me know what your intent is on these two applications. Thanks.

Sincerely,

Weisha Mize  
Hearings Referee

encl.

cc: Jake Szramek  
✓ Steve Brown  
John Drolet, Dist. 19



## Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-3066

May 3, 1990

Wayne Scherer  
Windhurst Road Water Corp.  
Box 503  
Bandon, OR 97411

RE: Applications R69708, 69654

Dear Wayne:

After our phone conversation on April 16, I had the understanding that you would be investigating the next steps you needed to take in regard to the above applications, particularly storage application R69708, and that you would be discussing the matter with Jake Szramek of this Department. I had thought that I would be hearing from you shortly thereafter regarding whether you wished protested application 69654 to be set for hearing.

Please write to me by May 15 and indicate your intention on these two applications. I would prefer that this communication be in writing rather than over the telephone so that there is no question about your intent and no possible misinterpretation as represented by notes I would take of a phone conversation. Thank you for your cooperation.

Sincerely,

Weisha Mize  
Hearings Referee

cc: Jake Szramek  
Greg Robart

January 22, 1990

RECEIVED

JAN 23 1990

WATER RESOURCES DEPT.  
SALEM, OREGON

Weisha Mize  
Hearings Referee  
Water Resources Department  
3850 Portland Rd N.E.  
Salem, Oregon, 97310

Dear Weisha Mize,

I apologize for not supplying the necessary bi-monthly reports on the activities that have been taking place in regards to our applications 69654 and R69708, and the possibility of water storage in the Geiger Creek watershed.

We have been waiting for some indication of what the city of Bandon is going to do about our initial request of them to modify the Geiger watershed closure order to allow us to put in storage in the watershed, and what, if anything they are going to do about their own water storage problem. It appears that what they decide to do about building a dam for their own water storage will have an impact on what they will allow us to do in the watershed. As I'm sure you are well aware, the wheels of bureaucracy move very slowly, and bi-monthly reports for December 4 and January 26 - and probably February 28 can be summed up in two words, "no change".

Tucson Meyer has been retained by the city of Bandon to make a complete proposal, and to date his only report to the city consisted of a brief overview of the entire concept. I know that he is working diligently on the project, but a multi-million dollar proposal isn't completed over a weekend.

With this all in mind, it appears we will indeed have to request a second postponement of our hearing from the tentative mid-April date mentioned in your letter.

A set-back that we have encountered is that the owners of the property we had planned to purchase on Bills Creek have taken the property off the market because of the continual extensions we had requested of them due to ODFW and Water Resources being unable to meet with us to make an early decision as promised at our meeting with Oregon Water Resources Board hearing April 17, 1989.

Thank you for your time and understanding.

Sincerely,  
*Wayne R. Scherer*  
Wayne R. Scherer  
Windhurst Road Water  
Corporation

RECEIVED

JAN 23 1990

WATER RESOURCES DEPT.  
SALEM, OREGON

THE WORLD.

9-6-89

## Bandon considers dam for stable water supply

By JOHN GRIFFITH  
Staff Writer

**BANDON** — Would Bandon be willing to consider a federally funded project to solve future water woes, generate electricity and guarantee cranberry growers a stable water supply?

City Manager Ben McMakin posed that question to his city council this week, providing a broad outline for a project the Bandon would prepare for Bureau of Reclamation consideration.

A 45 to 50-foot dam near the confluence of Ferry and Gieger creeks could provide enough head to generate electricity, would inundate mostly city- and state-owned property with a reservoir and eliminate winter flooding that occasionally covers downtown areas, McMakin said.

"A project like this could solve the water supply problems for the city of Bandon for many, many years," McMakin said.

Construction funds could come through the Small Reclamation Act of 1956, which requires the applying local government to do all needed studies. Tucson Meyer, now a water consultant and a former director of the State Water Resources Board, will provide the council a more detailed proposal within 30 days, McMakin said.

An Oregon Department of Fish and Wildlife hatchery on Ferry Creek probably would have to be relocated, McMakin added, but it's old and would benefit from a reliable, year-round water supply.

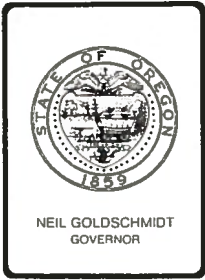
"I know it's not a prison, but ...," Mayor Jim Cawdrey said, comparing the quality of economic development associated with a dam to that of a state lockup that could be constructed in the nearby Seven Devils area. The council reiterated its singular opposition to a new prison anywhere in Coos County and especially in the proposed site. Bandon stands alone as the only municipality to oppose the project.

At council direction, McMakin wrote an Aug. 28 letter to Bill Hirsh, construction division administrator at the state Department of Corrections, detailing the failure of the Seven Devils site to measure up to any state prison construction standards. The letter was included in council members' meeting packets.

The council also adopted an amended agreement with Coos County allowing the disposal of sewage sludge in the county forest. The agreement essentially is identical to one the county has with Coos Bay, McMakin said.

City commercial water users may want to attend a city council hearing Nov. 7 as it considers an ordinance controlling the use of garbage disposals and industrial waste water fees.





## Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-3066

January 19, 1990

Wayne Scherer  
PO Box 503  
Bandon, OR 97411

RE: Applications 69654 and R69708, contested case/public  
interest hearing

Dear Mr. Scherer:

In October of last year I entered an Order in the above matter postponing the hearing for a period of not to exceed 6 months. A copy is enclosed for your reference.

I note initially that you have not filed any bi-monthly status reports as directed by this Order. Please provide me with your report, which was due December 4 and is more than a month delinquent, no later than January 26. A second report will be expected no later than February 28, at which time you should also expect to either make a request for a second postponement, or prepare for hearing, which I intend at this point to re-schedule in mid-April.

Secondly, I am unaware of any activity on your part to take steps necessary to allow for filing an application for storage, as I discussed in my letter to you of October 5 (copy enclosed). When you file your status report, indicate whether you have determined not to seek rulemaking to rescind or amend the State Engineer's Order withdrawing Geiger Creek.

Sincerely,

Weisha Mize  
Hearings Referee

encl.

cc: Greg Robart, ODFW  
Dennis Ades, DEQ  
Jake Szramek

BEFORE THE WATER RESOURCES DEPARTMENT OF OREGON

IN THE MATTER OF APPLICATIONS 69654 & ) ORDER GRANTING  
R69708 IN THE NAME OF WINDHURST ROAD ) POSTPONEMENT OF  
WATER COMPANY FOR USE AND STORAGE OF ) PUBLIC INTEREST  
WATER FROM BILL CREEK, TRIBUTARY TO ) HEARING  
BEAR CREEK, COOS COUNTY, OREGON )

Applicant Windhurst Road Water Company, by and through its representative, Wayne Scherer, has requested a postponement for an indefinite period of time for the above hearing presently scheduled for October 11, 1989. The request for postponement was received September 27, 1989.

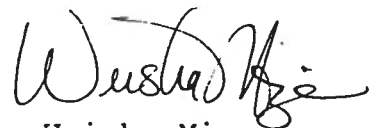
The Applicant states that it has been involved in preliminary discussions with the City of Bandon regarding the possibility of water storage in the upper Geiger Creek watershed for use in the late summer and fall in cranberry harvest activities. It appears that it is the applicants intent that such storage and use would replace the proposed appropriation and storage represented by the applications contested herein.

ODFW has been named as an interested agency in this matter. ODFW has indicated, on inquiry by the hearings referee, that it would not object to a postponement of the hearing.

It does not appear that this request is made for the purposes of delay or avoidance. It would be appropriate and in the best interests of all concerned to grant applicant's request for postponement.

The contested case hearing on applications 69654 and R69708, scheduled to be heard on October 11, 1989, is hereby postponed for a period of time not to exceed 6 months. The applicant is directed to initiate actions necessary to pursue the possibility of storage in the upper Geiger Creek watershed, and to report bi-monthly to the hearings referee on the status of its activities in this regard.

Signed and dated this 4th day of October, 1989.



Weisha Mize  
Hearings Referee



## Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-3066

October 5, 1989

Windhurst Road Water Corporation  
ATTN: Wayne Scherer  
PO Box 503  
Bandon, OR 97411

RE: Applications 69654 & R69708

Dear Mr. Scherer:

Enclosed please find the Order granting your request for postponement of the hearing in the above-referenced applications.

I'm sure you understand that in order to allow you to file an application for storage on Geiger Creek, the State Engineer withdrawal order will need to be rescinded or amended. You will need to petition the Commission for rulemaking to rescind the withdrawal order of the State Engineer.

I enclose a copy of OAR 137-01-070 regarding petitions for rulemaking. The Department is fairly liberal in what it accepts as petitions but I would recommend you follow the format set out in the rule as closely as possible. You might also contact the Department's Planning section for further information and data in support of your request.

You should also keep ODFW, and DEQ, which has indicated an interest in this matter, informed and seek their input regarding your proposal for storage on Geiger Creek.

Sincerely,

Weisha Mize  
Hearings Referee

WM/hmm

Enclosures

69654

RECEIVED

SEP 27 1989

WATER RESOURCES DEPT.  
SALEM, OREGON

September 20, 1989

Oregon Water Resources Department  
3850 Portland Road, N.E.  
Salem, Oregon 97310

Attention: Jake Szramek

Re: Bill Creek Dam Project - Bandon, Oregon

Dear Mr. Szramek:

By this letter, the Windhurst Road Water Corporation is requesting an indefinite postponement of the contested case hearing on the Bill Creek Dam project scheduled for October 11, 1989 at Bandon.

We have contacted the City of Bandon regarding the possibility of storing water in the upper Geiger Creek watershed. They have indicated an interest to the extent of asking for a proposal with more detailed information.


We feel that having stored water available in late summer and fall in this area will benefit us from a standpoint of having an adequate and stable water supply, and will result in less competition for the natural stream flow at that time of year, resulting in more water for the City of Bandon and the Oregon Department of Fish and Wildlife Hatchery at the confluence of Ferry and Geiger Creeks.

There is a State Engineer's Order dated April 13, 1961 withdrawing the Ferry and Geiger Creek watersheds from further appropriation except for municipal use by the City of Bandon.

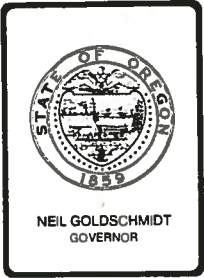
If the City of Bandon and the Oregon Water Resources Commission would consider allowing up to 200 acre feet of storage in the upper Geiger Creek watershed, all of the problems associated with the proposed storage reservoir on Bill Creek appear to us to be addressed in a positive manner.

Until these issues can be properly addressed, we believe it to be in the best interest of all parties and agencies concerned to postpone the contested case hearing.

Very truly yours,

  
Wayne Scherer  
for Windhurst Road Water Corporation

WS/p



## Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-3066

October 5, 1989

Windhurst Road Water Corporation

ATTN: Wayne Scherer

PO Box 503

Bandon, OR 97411

RE: Applications 69654 & R69708

Dear Mr. Scherer:

Enclosed please find the Order granting your request for postponement of the hearing in the above-referenced applications.

I'm sure you understand that in order to allow you to file an application for storage on Geiger Creek, the State Engineer withdrawal order will need to be rescinded or amended. You will need to petition the Commission for rulemaking to rescind the withdrawal order of the State Engineer.

I enclose a copy of OAR 137-01-070 regarding petitions for rulemaking. The Department is fairly liberal in what it accepts as petitions but I would recommend you follow the format set out in the rule as closely as possible. You might also contact the Department's Planning section for further information and data in support of your request.

You should also keep ODFW, and DEQ, which has indicated an interest in this matter, informed and seek their input regarding your proposal for storage on Geiger Creek.

Sincerely,

Weisha Mize  
Hearings Referee

WM/hmm

Enclosures

BEFORE THE WATER RESOURCES DEPARTMENT OF OREGON

IN THE MATTER OF APPLICATIONS 69654 & ) ORDER GRANTING  
R69708 IN THE NAME OF WINDHURST ROAD ) POSTPONEMENT OF  
WATER COMPANY FOR USE AND STORAGE OF ) PUBLIC INTEREST  
WATER FROM BILL CREEK, TRIBUTARY TO ) HEARING  
BEAR CREEK, COOS COUNTY, OREGON )

Applicant Windhurst Road Water Company, by and through its representative, Wayne Scherer, has requested a postponement for an indefinite period of time for the above hearing presently scheduled for October 11, 1989. The request for postponement was received September 27, 1989.

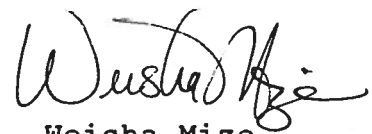
The Applicant states that it has been involved in preliminary discussions with the City of Bandon regarding the possibility of water storage in the upper Geiger Creek watershed for use in the late summer and fall in cranberry harvest activities. It appears that it is the applicants intent that such storage and use would replace the proposed appropriation and storage represented by the applications contested herein.

ODFW has been named as an interested agency in this matter. ODFW has indicated, on inquiry by the hearings referee, that it would not object to a postponement of the hearing.

It does not appear that this request is made for the purposes of delay or avoidance. It would be appropriate and in the best interests of all concerned to grant applicant's request for postponement.

The contested case hearing on applications 69654 and R69708, scheduled to be heard on October 11, 1989, is hereby postponed for a period of time not to exceed 6 months. The applicant is directed to initiate actions necessary to pursue the possibility of storage in the upper Geiger Creek watershed, and to report bi-monthly to the hearings referee on the status of its activities in this regard.

Signed and dated this 4th day of October, 1989.



Weisha Mize  
Hearings Referee



BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

IN THE MATTER OF APPLICATIONS 69654 & ,  
R69708 IN THE NAME OF WINDHURST ROAD ) NOTICE OF PUBLIC  
WATER CO. FOR USE AND STORAGE OF WATER ) INTEREST HEARING  
FROM BILL CREEK, TRIBUTARY TO BEAR )  
CREEK, COOS COUNTY, OREGON )

TO: Windhurst Road Water Corporation  
PO Box 503  
Bandon, OR 97411

Pursuant to the provisions of ORS 183.415, 537.170, & 537.180, you are hereby notified that a public interest contested case hearing in the matter of applications R69708 and 69654 will be held before Weisha Mize, an employe of the Water Resources Department, authorized to preside in behalf of the Director as a finder of fact. The hearing will begin at 10:00 AM on October 11, 1989, at the Bandon City Hall in Bandon, Oregon.

Application R69708 was filed on September 6, 1988, for a permit to store up to 100 acre-feet of water in a reservoir that is 25 feet in height. The reservoir will be located in the NE 1/4 SW 1/4 of Section 3, Township 29 South, Range 14 West, WM. The proposed Point of Diversion is Bill Creek, tributary to Bear Creek, tributary to Coquille River. The water will be used for cranberry irrigation, cranberry temperature control, cranberry flood harvest, and irrigation.

Application 69654 was filed on June 30, 1988, for a permit to appropriate up to 10 cfs for flood harvest, 21.20 cfs for temperature control, 3.53 cfs for cranberry irrigation, and 0.05 cfs for irrigation from stored water from the reservoir and from Bill Creek, tributary to Bear Creek.

The location of the proposed point of diversion from Bill Creek is described as 40 feet South and 2340 feet East from the West quarter corner of Section 3, being within the NE 1/4 of the SW 1/4 of Section 3, Township 29 South, Range 14 West, WM.

Lands on which water appropriated under Application 69654 will be used for the various purposes and are described as many small parcels. The total acres in each 1/4 1/4 section is shown below:

1/4 1/4	Section	Township	Range	Acres
SE/NE	5	29 S	14 W	16.90
NE/SE	5	29 S	14 W	6.00
NW/NE	5	29 S	14 W	.40
NE/NE	5	29 S	14 W	1.40
SW/NE	5	29 S	14 W	2.00
NW/SW	4	29 S	14 W	17.25
SW/SW	4	29 S	14 W	15.10
SE/SW	4	29 S	14 W	1.00
NE/SE	4	29 S	14 W	5.00
NW/SW	3	29 S	14 W	3.00
NW/NE	9	29 S	14 W	5.00
NE/NE	9	29 S	14 W	5.50
SW/NE	9	29 S	14 W	9.80
NW/SW	33	28 S	14 W	13.00
NE/SW	33	28 S	14 W	5.00
NE/NE	32	28 S	14 W	12.80
SE/NE	32	28 S	14 W	22.20
				141.35

The applicant, WRD and ODFW have engaged in a number of discussions in an attempt to resolve identified natural resource concerns. No satisfactory agreement has been reached and the Water Resources Commission directed that the matter be set for a public interest-contested case hearing.

Interested persons or agencies may request full or limited party status or interested agency status in the hearing by filing a petition for party or limited party status or request for interested agency status with the Department of Water Resources no later than August 21, 1989. Oregon Administrative Rules 137-03-005, 137-03-007, and 690-02-001 govern requests for party or limited party status and non-attorney representation. OAR 137-03-007 governs requests by agencies to participate as a party or interested agency.

Attached is information on the procedures, right of representation, and other rights of parties relating to conduct of the hearing, as required by the provisions of ORS 183.413(2), and a copy of OAR 690-11-010, 690-11-080, and 690-75 et seq. pertaining to issues and procedures in public interest hearings. OAR 690-11-080 should be read in conjunction with the definitions in 690-11-010.

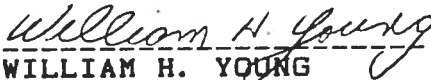
The issue to be determined in this proceeding is whether the storage and use as proposed by Applications R69708 and 69654 would be prejudicial to the public interest.

The applicant, ODFW, and all full or limited parties admitted on petition shall file written direct testimony and proof of service on all other parties with the Hearings Referee no later than September 22, 1989. The hearing shall be limited to opening statements, cross-examination on pre-filed direct testimony, rebuttal, and closing arguments. The order of the hearing will be:

1. ODFW (Interested agency)
2. Parties admitted on petition
3. Applicant
4. Rebuttal

The applicant had the burden to show that the proposed use of water would not be prejudicial to the public interest. The ODFW has the burden to produce testimony and evidence to support the allegation that the proposed use will cause harm to the public interest.

DATED at Salem, Oregon this 10<sup>th</sup> day of August, 1989.

  
WILLIAM H. YOUNG  
Director

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

CC: John Drolet, Watermaster, District 19



*Department of Fish and Wildlife*

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

RECEIVED

AUG - 3 1989

WATER RESOURCES DEPT.  
SALEM, OREGON

July 26, 1989

Weisha Mize  
Water Resources Department  
3850 Portland Road NE  
Salem, OR 97310

Dear Weisha:

Re: Water Right R69708, 69654, Proposed Agreement, Windhurst Water Corporation/ODFW.

The Oregon Department of Fish and Wildlife has reviewed the July 9, 1989 proposed agreement submitted by Wayne Scherer, Windhurst Road Water Corporation. As I mentioned to you yesterday, although we appreciate Mr. Scherer's attempts to reach agreement, the terms expressed in his recent proposal do not alleviate our original concerns.

Mr. Scherer's proposed agreement attempts resolution absent specific hydrology and engineering designs showing how fish would be protected. So long as the applicant can provide only general concepts as to what he envisions, agreement will remain out of reach. The project Mr. Scherer proposes offers the same risks expressed in our April 7, 1989 letter to WRC about this project.

Thank you for the opportunity to consider Mr. Scherer's proposed agreement. For the reasons expressed in our prior correspondence we anticipate referral of this issue to an October 11, 1989 contested case hearing to determine the public interest.

Sincerely,

Gregory P. Robart  
Staff Biologist  
Aquatic Habitat Program  
Habitat Conservation Division

gpr  
c WRD - Szramek/Applegate



## Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE 378-3066

### MEMORANDUM

TO: Water Resources Commission

FROM: Director *wmy*

SUBJECT: Agenda Item G, April 17, 1989, Water Resources Commission Meeting

Consideration for Approval of Applications R-69708 and 69654 to Store and Use Water from Bill Creek, Tributary to Bear Creek and Coquille River for Cranberry Irrigation, Temperature Control, Flood Harvesting and Irrigation, Windhurst Road Water Corporation, Coos County.

#### Background:

On June 30, 1988, and September 6, 1988, applications were submitted by Windhurst Road Water Corporation. Application R-69708 proposes to store up to 100 acre-feet of water in a reservoir that is 25 feet in height. Application 69654 outlines the use of up to 34.79 cubic feet per second from the reservoir and Bill Creek for cranberry operations. Plans and specifications will be required and approved before permits are issued.

The water will be used for cranberry irrigation (3.53 cfs), temperature control (21.20 cfs being 15.63 cfs for primary and 15.57 cfs for supplemental), cranberry flood harvesting (10 cfs) and irrigation (0.05 cfs). Temperature control includes both frost and heat control. The water for temperature control would be used during extreme weather conditions. According to the applicant, temperature control should not occur more than about five times a year. The amount listed for irrigation is for lawn and garden.

The question before the Commission is whether a hearing is required to determine if the public interest is served by granting permits for a structure that is greater than 10 feet high, stores more than 9.2 acre-feet of water and is for use of more than 5 cfs of water. The Commission's rules require that applications for dams greater than 10 feet in height or impounding more than 9.2 acre-feet of water [690-11-080 (2)(a)(C)] and applications for appropriations of greater than 5 cfs [690-11-080 (2)(a)(A)] must be referred to the Commission for a public interest determination under ORS 537.170.

In addition, the South Coast Basin Program requires that all applications for appropriation of water for storage in structures impounding more than 3,000,000 gallons of water shall be reviewed by the Commission prior to approval. During the review, the Commission may establish additional minimum flows on the natural flow of the stream to support aquatic life or minimize pollution.

Evaluation:

Notice of receipt of applications was provided to the public on July 8, 1988, for Application 69654 and September 9, 1988, for R-69708.

The proposed reservoir would be constructed as part of a plan to provide water to a new cranberry production area and to provide additional water to existing lands owned by the applicant. The dam will be a combination earth fill and flashboard structure with reinforced concrete abutments. The flashboards are intended to be placed in the structure in such a fashion that the water level would be raised slowly beginning in April of each year. The flashboards would be removed by November 1 of each year.

The Dam Safety Section must review the reservoir application because of the size requirements. The applicant has an engineer to develop plans and specifications.

Staff received comments from the watermaster. Based upon previous regulation in the area, the watermaster believes that sufficient water is available during the winter to fill the reservoir, but late season flows would need to be released in order to provide for downstream water uses. Stored water will be required during the summer. Some type of control gates would be needed in the structure in order to release summer flows to protect downstream uses of water. This would include minimum streamflows on the Coquille River.

In addition, the Oregon Department of Fish and Wildlife (ODFW) provided the following comments about the proposal:

Bill Creek is an important spawning and rearing habitat for coho, winter steelhead and searun and resident cutthroat trout. In addition, there are Salmon Trout Enhancement Program (STEP) projects on Bill Creek to enhance fish migration, spawning and rearing habitat.



According to ODFW, the flows in Bill Creek are adequate to satisfy this appropriation only during the moderate to high-flow periods during the winter months. ODFW is concerned that the proposed appropriation could adversely affect anadromous fish migration, spawning, and rearing. They mentioned that the requested flow would be detrimental to the public interest in maintaining wild fish population habitat.

As a result, the ODFW recommended that following flows (in cfs) be maintained in the stream:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
17	17	17	17	17	10	6	6	6	6	10/17	17

In order to determine what could be done to satisfy all concerned individuals, WRD Salem staff, the watermaster, ODFW Portland Office and the local district biologist, applicant and his consultant met in Coquille in December, 1988. The group also made a field inspection of the proposed site and met again in February, 1989, to discuss concerns identified from the earlier meeting.

The meeting was held in order to determine if the parties were willing to come to some sort of agreement that would protect fish life, provide late season water to the area, and provide sufficient water to the applicant. All parties agreed that some type of agreement could be reached that would benefit the stream system and provide water to the applicant.

Based upon discussions with the groups identified above, some possible conditions that would be placed upon the permits include:

1. requiring the applicants to develop a fill and release schedule to maintain a minimum reservoir level to allow for fish rearing;
2. installing control valves to allow water to be released during all times of the year;
3. installing pump screening;
4. allowing by-pass flows and develop an approved operation schedule; and
5. keeping woody debris in reservoir for fish cover and nutrients.

Those conditions would benefit the ODFW, the public and would allow the applicant the ability to store and use water. The use of stored water would be available to the stream during the late summer and would be available to the user. An agreement is being developed between the concerned groups. The STEP individuals on Bill Creek are aware of the review for the applications and are satisfied with the ongoing discussions.

The applicant intends to buy the property where the reservoir site is located and earnest money has been submitted. The land sale would not be concluded until permits are issued. The applicant does not want to spend money to purchase the land, design and build the reservoir unless all concerns can be adequately addressed and permits issued. Based upon the meetings which were held, it appears that a permit could be crafted that would meet all concerns and benefit the stream system. If a permit is issued, the agreement would be part of the permit. Since all parties have something to gain from this process, it would be beneficial to get an agreement. If an agreement cannot be reached, staff recommends that the applications be rejected to protect the fish resources in the stream and schedule the necessary contested case hearing to reject the applications.

Alternatives:

1. Find that the public interest may be injured by granting a permit to construct a structure that is greater than 10 feet high, stores more than 9.2 acre-feet and uses more than 5 cfs, and schedule a public interest hearing to assist the Commission in making its determination.
2. Determine that the public interest will not be injured by the storage and use of the quantity of water proposed; authorize the Director to issue permits with the appropriate conditions. Permit issuance would be contingent on receipt of a written agreement outlined above and signed by all parties, approval of plans and specifications for the reservoir and completion of the applications. The conditions will be identified in the agreement which is reached. If an agreement cannot be reached, staff recommends that the applications be rejected to protect the fish resources in the stream and schedule the necessary contested case hearing to reject the applications.

Director's Recommendation:

The staff recommends Alternative 2, that the Commission authorize the Director, if all parties agree in writing and the plans and specifications for the reservoir are approved, to issue permits with the appropriate conditions. The conditions will be identified in the agreement that is reached. Staff further recommends that if an agreement cannot be reached, the applications be rejected to protect the fish resources in the stream and schedule the necessary contested case hearing to reject the applications.

Attachments:

- A) Copy of Application R-69708
- B) Copy of Application 69654
- C) Copy of location map
- D) Copy of ODFW Letter
- E) Copy of Watermaster Response

Jake Szramek  
378-3066  
February 2, 1989

cc: Wayne R. Scherer, Applicant  
ODFW Portland Office  
ODFW Field Office  
Watermaster District 19  
STEP Participants in Bandon Area

Application No. R. 69708

Permit No. \_\_\_\_\_

# STATE OF OREGON WATER RESOURCES DEPARTMENT

## Application for a Permit to Construct a Reservoir

I, WINDHURST ROAD WATER CORPORATION

Name of Applicant

of P. O. BOX 503

(Mailing Address)

BANDON

State of OREGON

97411

(Zip Code)

Phone No. 503/347-3062

(City)

do hereby make application for a permit to construct the Unnamed reservoir and to store the unappropriated waters of the State of Oregon, subject to existing rights.

1. The name of the stream from which the reservoir is to be filled is Bill Creek Tributary to Bear Creek tributary to Coquille River

2. If not in channel of a stream, state how it is to be filled The dam will be in the channel of Bill Creek.

3. The dam will be located in the NE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of Section 3 Township 29 South, Range 14 West, W. M.

4. The maximum height will be 25 feet above stream bed or ground surface at the centerline. The top width will be 20 feet. slope of upstream face 3:1 slope of downstream face 2:1 and height of dam above water line when full 2.5 feet.

5. The dam will be (check one)  earthfill,  concrete,  flashboard,  other. If "other", give description: See Item #12

6. Give the location, description, and dimensions of the outlet conduit: A 12" diameter PVC valved conduit through the left abutment.

(All dams across natural stream channels must be provided with an outlet conduit, of such capacity and location to pass the normal flow of the stream at any time)

Application No. D-4728

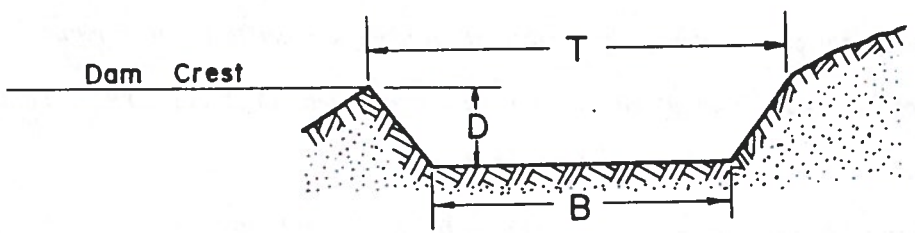
Permit No. ....

7. The impounded water will be used for... Cranberry irrigation, cranberry temperature control, cranberry flood harvest, and irrigation.

8. The amount of water to be stored is... 100 ... acre feet.

9. The area submerged by the reservoir, when full, will be... 10 ... acres, and the maximum depth of water will be ... 22 ... feet.

10. Give the location and dimensions of the spillway ... See item #12. (State whether over or around dam)



The bottom width of the spillway, B, will be ... See item #12. ... feet.

The top width of the spillway, T, will be ... See item #12. ... feet.

The distance between the crest of the dam and the crest of the spillway, D, will be ... 2.5 ... feet. (Must be at least 2 1/4 feet)

If any other type of spillway describe and give dimensions:

See item #12.

11. Construction work will begin on or before... October 1, 1989

12. Construction work will be completed and the reservoir filled by... October 1, 1991

Remarks: The structure is intended to be a combination earth fill and flashboard. A reinforced concrete left abutment cast into bedrock, approximately 30 feet of flashboard structure, a right abutment, serving as a transition zone, and an earthfill structure anchoring the right abutment.

Excavation will be to bedrock throughout the length of the flashboard portion. Dowels will be embedded, and a reinforced concrete base will be constructed, extruding from bedrock to the approximate elevation of the bottom of the existing channel. In addition, reinforced concrete grade beams will intersect the base at right angles from downstream, at 8 to 10 feet centers, so as to provide the necessary support for several support brackets.

The flashboards are intended to be placed on about April 1st of each year, and removed on about November 1st of each year. The structure will store no water between November 1st and April 1st.

Engineering plans and specifications are being prepared by James F. Gosson, Civil Engineer, Roseburg, Oregon and will be forwarded for your review immediately upon their completion.

Wayne R. Scherer  
Signature of Applicant

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for.....

In order to retain its priority, this application must be returned to the Water Resources Director with corrections on or before....., 19.....

WITNESS my hand this ..... day of ....., 19.....

..... Water Resources Director

By .....

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the

6<sup>1/2</sup> day of September 19 88, at 8 o'clock A.M.

Application No. R-69708

Permit No.....



**RECEIVED**

**STATE OF OREGON WATER RESOURCES DEPARTMENT**

JUN 30 1988

**Application for Permit to Appropriate Surface Water**

WATER RESOURCES DEPT  
SALEM, OREGON

I, WINDHURST ROAD WATER CORPORATION  
(Name of Applicant)

of P.O. BOX 503, BANDON  
(Mailing Address) (City)

State of OREGON, 97411 Phone No. 503-347-3062 do hereby  
(Zip Code)

make application for a permit to appropriate the following described waters of the State of Oregon:

1. The source of the proposed appropriation is BILL CREEK  
....., a tributary of BEAR CREEK

2. The point of diversion is to be located 40 ft. S and 2340 ft. E  
(N. or S.) (E. or W.)  
from the W 1/4 corner of SECTION 3  
(Public Land Survey Corner)

(If there is more than one point of diversion, each must be described)

..... being within the NE 1/4 of the SW 1/4 of  
Sec. 3 Tp. 29S R. 14W, W. M., in the county of COOS  
(N. or S.) (E. or W.)

3. Location of area to be irrigated, or place of use if other than irrigation.

Township	Range	Section	List 1/4 1/4 of Section	List use and/or number of acres to be irrigated
		<u>SEE ATTACHED SHEET</u>		



Remarks: TEMPERATURE CONTROL INCLUDES BOTH  
FROST CONTROL & HEAT CONTROL.

This permit, when issued, is for the beneficial use of water. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

Wayne R Scherer  
Signature of Applicant  
PRESIDENT

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for.....

In order to retain its priority, this application must be returned to the Water Resources Director with corrections on or before ....., 19.....

WITNESS my hand this ..... day of ....., 19.....

Water Resources Director

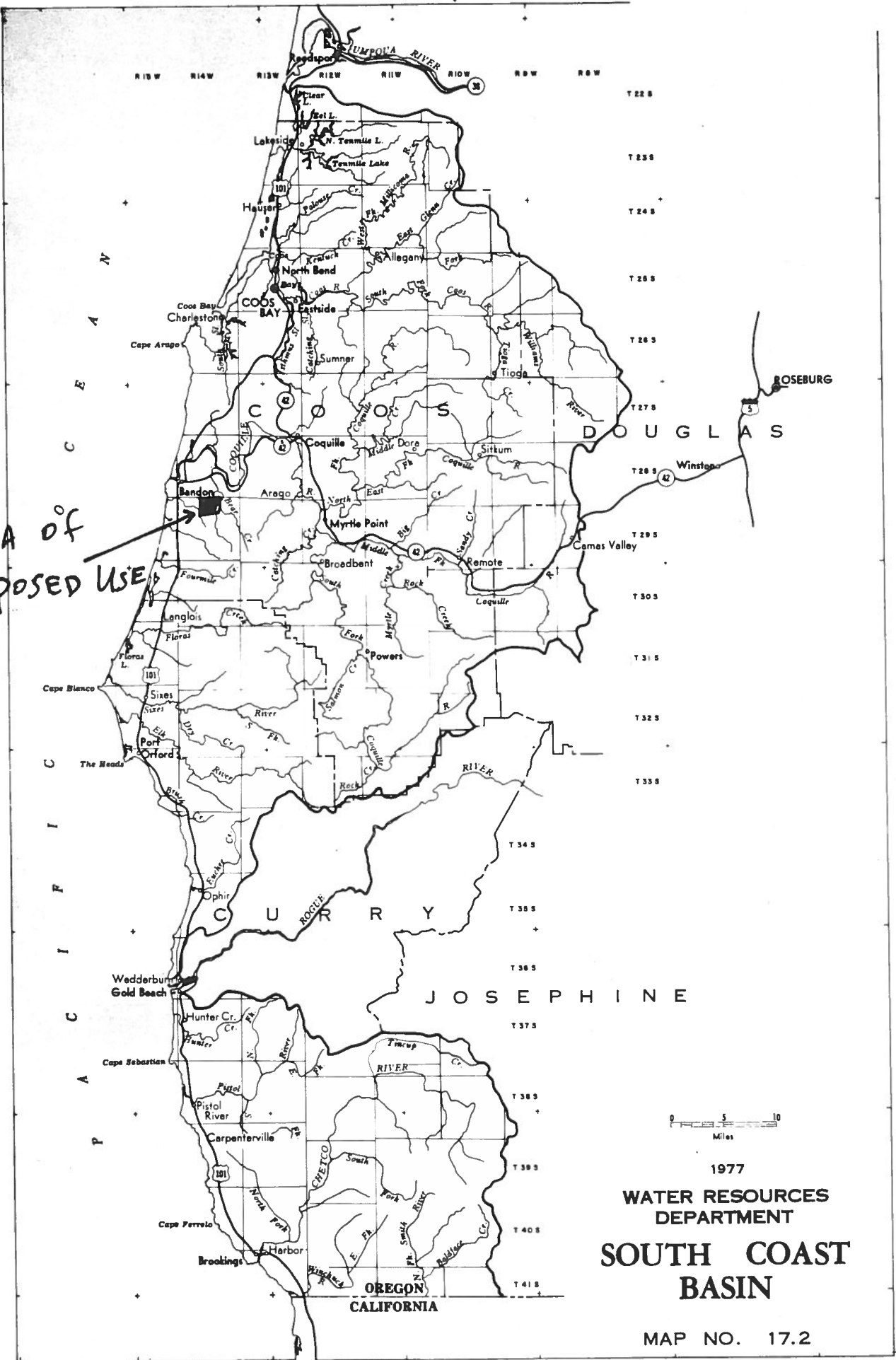
By .....

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 30<sup>th</sup> day of June, 19 88, at 11:30 o'clock A.M.

Application No. 69654

Permit No. ....

AREA OF PROPOSED USE



1977  
 WATER RESOURCES  
 DEPARTMENT  
**SOUTH COAST  
 BASIN**

MAP NO. 17.2



## Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

September 2, 1988

Jake Szramek  
Water Resources Department  
3850 Portland Road N.E.  
Salem, OR 97310

Dear Jake:

Re: WRD 69654, Windhurst Road Water Corporation, Bill  
Creek, 34.79 cfs.

Bill Creek is a tributary to Bear Creek and the Coquille River near Bandon. The stream is important spawning and rearing habitat for coho, winter steelhead and searun and resident cutthroat trout. Current Salmon Trout Enhancement Program (STEP) projects on Bill Creek are enhancing fish migration, spawning and rearing habitat. The Oregon Department of Fish and Wildlife working with volunteer citizens has devoted considerable time and effort to enhance Bill Creek fish habitat.

Bill Creek has flows adequate to satisfy this appropriation only during the moderate to high flow periods during the winter months. The requested appropriation could adversely effect anadromous fish migration spawning, migration and rearing.

The ODFW believes issuance of this water right for the amount requested would be detrimental to the public interest in maintaining wild fish population habitat. Accordingly, ODFW recommends withholding issuance of this water right subject to maintaining the following minimum instream flows (cubic feet per second) at the point of diversion.

<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
25	25	25	25	25	15	4	4	4/35	35	35

Jake Szramek  
September 2, 1988  
Page 2

Unless the appropriation can be made subject to these restrictions, a substantial unresolved public interest issue is raised and this application should be referred for a contested case hearing under ORS 537.170 and 537.180.

Please advise us of your decision and thank you for the opportunity to comment.

Sincerely,



Gregory P. Robart  
Staff Biologist  
Aquatic Habitat Division

gpr





## Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

September 23, 1988

Jake Szramek  
Water Resources Department  
3850 Portland Road N.E.  
Salem, OR 97310

Dear Jake:

Re: WRD 69654, Windhurst Road Water Corporation, Bill Creek, 34.79 cfs. ODFW  
letter of recommendation of September 2 1988.

Please correct a minimum flow recommendation error in subject letter.

Minimum flows should read:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>17</u>	<u>17</u>	<u>17</u>	<u>17</u>	<u>17</u>	<u>10</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>10/17</u>	<u>17</u>

Thank you.

Sincerely,

Gregory P. Robart  
Staff Biologist  
Aquatic Habitats Division

gpr

**James F. Gosson**  
Consulting Engineer

RECEIVED

FEB - 8 1989

WATER RESOURCES DEPT.  
SALEM, OREGON

February 7, 1989

Oregon Department of Fish and Wildlife  
506 S. W. Mill Street  
P. O. Box 59  
Portland, Oregon 97207

Attention: Gregory P. Robart

Re: Proposed Bill Creek Dam, Coos County

Dear Mr. Robart:

The Windhurst Road Water Corporation, a group of cranberry growers along Geiger Creek, proposes to construct a flashboard dam on Bill Creek in Coos County. The growers are at the stage of investing considerable monies in the project if a Bill Creek dam can be built. They would like to approach the State Water Resources Commission in March to begin working with the WRD staff on the requirements for the project. Since Bill Creek is an anadromous fish stream, the growers need to have an idea of the conditions that might be required if the structure is built.

As engineer for the proposed project, I submit the following as a general description of the project, its function, and the early thoughts we have concerning its operation.

The proposed dam is of the flashboard type consisting of a concrete base at the current stream level. The left abutment will be concrete and the right, either concrete or a combination of concrete and earth fill. The open width, with the flashboards removed, will be 15 - 20 feet, approximately the bottom width of the existing channel. Its height, with all the flashboards in place, will be 20 - 30 feet depending on the storage requirements. The flashboards will be supported by several steel frames. The steel frames will be either removable or they will have the capability of being folded and lain flat on the concrete base. Spacing between the frames will be 4 - 5 feet.

A valved conduit will be installed in one of the abutments to allow the release of water from the reservoir when filling, or to maintain a minimum release when using the stored water. At this time no fish ladder is being planned.

The pump intake line will be screened so as to prohibit small fish from being drawn into the diversion works.

Bill Creek is an ungaged stream, however on August 19, 1988, John Youngquist, a former Watermaster, and myself measured Bill Creek at the proposed dam site location. Flow, at that time, was 0.06 cfs which was less than other basins of comparable drainage areas in the south coast area (i.e., Geiger Creek). Additional work needs to be done in this area to identify the summer water supply, however it appears that Bill Creek may drop below other drainages of similar area in the summer. Given the data we know and the proposed June through October minimum flows discussed by your department in your letter to Jake Szramek, no use of water from the natural flow could occur in the normal cranberry season from this source.

The growers need to store a minimum of 100 acre feet of water to have a feasible project. This water would be used for the raising and harvesting of cranberries within the Geiger Creek watershed. Geiger Creek, being closed by order of the state engineer, requires the growers to seek a secondary source to supplement current needs or develop new bogs. We need to know if the growers would be able to store 100 acre feet between March and May without injury to the anadromous fishery. If this is not possible, this project is not feasible.

Before committing \$7,000 to \$10,000 to complete the design of the project we need to know the following:

1. An approximate range of the proposed minimum flows (instream water rights) by month that will be required.
2. Assuming the growers do not take more than 20% of the flow, could we fill the reservoir between March 1st and May 15th of each year?

While it has not been discussed, I propose to incorporate a means of passing the fish downstream during June and July each year.

We would appreciate your thoughts on these subjects so we may know how to proceed, or not proceed, with the project. Please contact me if you have any questions.

Very truly yours,

ORIGINAL SIGNED BY JAMES F. GOSSON

James F. Gosson, P.E.

cc: Wayne Scherer (Windhurst Road Water Corporation)  
Jake Szramek  
John Youngquist



## Department of Fish and Wildlife

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

RECEIVED

SEP 27 1988

WATER RESOURCES DEPT.  
SALEM, OREGON

September 23, 1988

Jake Szramek  
Water Resources Department  
3850 Portland Road N.E.  
Salem, OR 97310

Dear Jake:

Re: WRD 69654, Windhurst Road Water Corporation, Bill Creek, 34.79 cfs. ODFW  
letter of recommendation of September 2 1988.

Please correct a minimum flow recommendation error in subject letter.

Minimum flows should read:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<u>17</u>	<u>17</u>	<u>17</u>	<u>17</u>	<u>17</u>	<u>10</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>6</u>	<u>10/17</u>	<u>17</u>

Thank you.

Sincerely,

Gregory P. Robart  
Staff Biologist  
Aquatic Habitats Division

gpr

Jake called  
Mr. Scherer about  
his ODFW letter.  
May meet with  
parties involved in  
mid November



*Department of Fish and Wildlife*

506 SW MILL STREET, P.O. BOX 59, PORTLAND, OREGON 97207

RECEIVED

SEP 21 1988

WATER RESOURCES DEPT,  
SALEM, OREGON

September 2, 1988

Jake Szramek  
Water Resources Department  
3850 Portland Road N.E.  
Salem, OR 97310

Dear Jake:

Re: WRD 69654, Windhurst Road Water Corporation, Bill  
Creek, 34.79 cfs.

Bill Creek is a tributary to Bear Creek and the Coquille River near Bandon. The stream is important spawning and rearing habitat for coho, winter steelhead and searun and resident cutthroat trout. Current Salmon Trout Enhancement Program (STEP) projects on Bill Creek are enhancing fish migration, spawning and rearing habitat. The Oregon Department of Fish and Wildlife working with volunteer citizens has devoted considerable time and effort to enhance Bill Creek fish habitat.

Bill Creek has flows adequate to satisfy this appropriation only during the moderate to high flow periods during the winter months. The requested appropriation could adversely effect anadromous fish migration spawning, migration and rearing.

The ODFW believes issuance of this water right for the amount requested would be detrimental to the public interest in maintaining wild fish population habitat. Accordingly, ODFW recommends withholding issuance of this water right subject to maintaining the following minimum instream flows (cubic feet per second) at the point of diversion.

<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Aug</u>	<u>Sep</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
25	25	25	25	25	15	4	4	4/35	35	35

Jake Szramek  
September 2, 1988  
Page 2

Unless the appropriation can be made subject to these restrictions, a substantial unresolved public interest issue is raised and this application should be referred for a contested case hearing under ORS 537.170 and 537.180.

Please advise us of your decision and thank you for the opportunity to comment.

Sincerely,



Gregory P. Robart  
Staff Biologist  
Aquatic Habitat Division

gpr



PRELIMINARY  
SUBJECT TO REVISION

STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

WINDHURST ROAD WATER CORPORATION  
P.O. BOX 503  
BANDON, OREGON 97411

503-347-3062

is hereby issued a permit to use the waters from BILL CREEK, A TRIBUTARY OF BEAR CREEK

for CRANBERRY IRRIGATION, CRANBERRY TEMPERATURE CONTROL, CRANBERRY FLOOD HARVESTING AND IRRIGATION OF 5.0 ACRES.

The permit to the use of these waters has been issued under Application 69654 with a date of priority of JUNE 30, 1988. The permit is limited to not more than 34.79 CUBIC FEET PER SECOND, BEING 10.0 CFS FOR FLOOD HARVESTING; 21.20 CFS FOR TEMPERATURE CONTROL(15.63 CFS PRIM.,5.57 CFS SUPP.);3.53 CFS FOR CRANBERRY IRR(1.91 CFS PRIM.,1.62 CFS SUPP.); & 0.05 FOR IRRIGATION. or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

NE 1/4 SW 1/4, Section 3, T 29 S, R 14 W, WM;  
40 FEET SOUTH & 2340 FEET EAST FROM W1/4 CORNER, SECTION 3

The use of water allowed under this permit shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The place of use is as follows:

	ACRES	1/4	1/4	SECTION	TOWNSHIP	RANGE,	WM
IRR OF CRAN	3.00	NW	SW	3	29	S 14	W
TEMP CONTROL	3.00	NW	SW	3	29	S 14	W
CRAN HARVEST	3.00	NW	SW	3	29	S 14	W
IRR OF CRAN	11.00	NW	SW	4	29	S 14	W
IRR OF CRAN	6.00	NW	SW	4	29	S 14	W
IRR OF CRAN	0.25	NW	SW	4	29	S 14	W
TEMP CONTROL	17.00	NW	SW	4	29	S 14	W
SUPP TEMP	0.25	NW	SW	4	29	S 14	W
CRAN HARVEST	17.00	NW	SW	4	29	S 14	W
FLOOD HARV	0.25	NW	SW	4	29	S 14	W
primary	1.00	NW	SW	4	29	S 14	W
IRR OF CRAN	2.00	SW	SW	4	29	S 14	W
IRR OF CRAN	13.10	SW	SW	4	29	S 14	W
TEMP CONTROL	2.00	SW	SW	4	29	S 14	W
SUPP TEMP	13.10	SW	SW	4	29	S 14	W
CRAN HARVEST	2.00	SW	SW	4	29	S 14	W
FLOOD HARV	13.10	SW	SW	4	29	S 14	W
primary	1.00	SW	SW	4	29	S 14	W
IRR OF CRAN	0.20	SE	SW	4	29	S 14	W
IRR OF CRAN	0.80	SE	SW	4	29	S 14	W
TEMP CONTROL	0.20	SE	SW	4	29	S 14	W
SUPP TEMP	0.80	SE	SW	4	29	S 14	W
CRAN HARVEST	0.20	SE	SW	4	29	S 14	W
FLOOD HARV	0.80	SE	SW	4	29	S 14	W
IRR OF CRAN	5.00	NE	SE	4	29	S 14	W

TEMP CONTROL	5.00	NE	SE	4	29	S	14	W
CRAN HARVEST	5.00	NE	SE	4	29	S	14	W
IRR OF CRAN	1.00	NE	NE	5	29	S	14	W
IRR OF CRAN	0.40	NE	NE	5	29	S	14	W
TEMP CONTROL	1.40	NE	NE	5	29	S	14	W
CRAN HARVEST	1.40	NE	NE	5	29	S	14	W
IRR OF CRAN	0.30	NW	NE	5	29	S	14	W
IRR OF CRAN	0.10	NW	NE	5	29	S	14	W
TEMP CONTROL	0.40	NW	NE	5	29	S	14	W
CRAN HARVEST	0.40	NW	NE	5	29	S	14	W
IRR OF CRAN	2.00	SW	NE	5	29	S	14	W
TEMP CONTROL	2.00	SW	NE	5	29	S	14	W
CRAN HARVEST	2.00	SW	NE	5	29	S	14	W
primary	1.00	SW	NE	5	29	S	14	W
IRR OF CRAN	13.00	SE	NE	5	29	S	14	W
IRR OF CRAN	0.30	SE	NE	5	29	S	14	W
IRR OF CRAN	3.60	SE	NE	5	29	S	14	W
TEMP CONTROL	0.30	SE	NE	5	29	S	14	W
TEMP CONTROL	16.60	SE	NE	5	29	S	14	W
CRAN HARVEST	0.30	SE	NE	5	29	S	14	W
CRAN HARVEST	16.60	SE	NE	5	29	S	14	W
IRR OF CRAN	1.00	NE	SE	5	29	S	14	W
IRR OF CRAN	5.00	NE	SE	5	29	S	14	W
TEMP CONTROL	6.00	NE	SE	5	29	S	14	W
CRAN HARVEST	6.00	NE	SE	5	29	S	14	W
IRR OF CRAN	2.50	NE	NE	9	29	S	14	W
IRR OF CRAN	3.00	NE	NE	9	29	S	14	W
TEMP CONTROL	5.50	NE	NE	9	29	S	14	W
CRAN HARVEST	5.50	NE	NE	9	29	S	14	W
IRR OF CRAN	5.00	NW	NE	9	29	S	14	W
TEMP CONTROL	5.00	NW	NE	9	29	S	14	W
CRAN HARVEST	5.00	NW	NE	9	29	S	14	W
IRR OF CRAN	2.50	SW	NE	9	29	S	14	W
IRR OF CRAN	7.30	SW	NE	9	29	S	14	W
TEMP CONTROL	9.80	SW	NE	9	29	S	14	W
CRAN HARVEST	9.80	SW	NE	9	29	S	14	W
primary	1.00	SW	NE	9	29	S	14	W
IRR OF CRAN	10.00	NE	NE	32	28	S	14	W
IRR OF CRAN	2.80	NE	NE	32	28	S	14	W
TEMP CONTROL	10.00	NE	NE	32	28	S	14	W
SUPP TEMP	2.80	NE	NE	32	28	S	14	W
CRAN HARVEST	10.00	NE	NE	32	28	S	14	W
FLOOD HARV	2.80	NE	NE	32	28	S	14	W
primary	1.00	NE	NE	32	28	S	14	W
IRR OF CRAN	20.00	SE	NE	32	28	S	14	W
IRR OF CRAN	2.20	SE	NE	32	28	S	14	W
TEMP CONTROL	20.00	SE	NE	32	28	S	14	W
SUPP TEMP	2.20	SE	NE	32	28	S	14	W
CRAN HARVEST	20.00	SE	NE	32	28	S	14	W
FLOOD HARV	2.20	SE	NE	32	28	S	14	W
IRR OF CRAN	5.00	NE	SW	33	28	S	14	W
SUPP TEMP	5.00	NE	SW	33	28	S	14	W
FLOOD HARV	5.00	NE	SW	33	28	S	14	W
IRR OF CRAN	13.00	NW	SW	33	28	S	14	W
SUPP TEMP	13.00	NW	SW	33	28	S	14	W
FLOOD HARV	13.00	NW	SW	33	28	S	14	W

Total: 289.90 primary and 139.15 supplemental acres.

Actual construction work shall begin on or before ~~9/14/1988~~, and shall be completed on or before October 1, ~~1988~~. Complete application of the water to the use shall be made on or before October 1, ~~1988~~.

This permit is for the beneficial use of water. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

The right is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.

Issued this date, ~~9/14/1988~~.

---

Water Resources Department  
William H. Young  
Director

Application 69654 Water Resources Department Permit

STATE OF OREGON

COUNTY OF COOS

D R A F T

WINDHURST ROAD WATER CORPORATION 503-347-3062  
of P.O. BOX 503 BANDON, OR 97411  
has a permit to the use of the waters of BILL CREEK, A TRIBUTARY OF  
BEAR CREEK

for the purpose of CRANBERRY IRRIGATION, CRANBERRY TEMPERATURE  
CONTROL, CRANBERRY FLOOD HARVESTING AND IRRIGATION OF 5.0 ACRES.

The permit to the use of these waters has been issued under  
Application 69654. The date of priority is JUNE 30, 1988.  
The permit is limited to not more than 34.79 CUBIC FEET PER SECOND,  
BEING 10.0 CFS FOR FLOOD HARVESTING, 21.20 CFS FOR TEMPERATURE  
CONTROL(15.63 CFS PRIM., 5.57 CFS SUPP.), 3.53 CFS FOR CRANBERRY  
IRR(1.91 CFS PRIM., 1.62 CFS SUPP.), & 0.05 FOR IRRIGATION.  
or its equivalent in case of rotation, measured at the point of  
diversion from the source. The point of diversion is located as  
follows:

NE 1/4 SW 1/4, Section 3, T 29 S, R 14 W, WM;  
40 FEET SOUTH & 2340 FEET EAST FROM W1/4 CORNER, SECTION 3

If for irrigation of cranberries, this permit shall be limited  
to 1/40 of one cubic foot per second or its equivalent for each acre  
irrigated and shall be further limited to a diversion of not to  
exceed 3.0 acre-feet per acre for each acre irrigated during the  
irrigation season of each year. If for the irrigation of any other  
crop, this permit shall be limited to of one cubic foot per  
second or its equivalent for each acre irrigated and shall be  
further limited to a diversion not to exceed acre-feet per  
acre for each acre irrigated during the irrigation season of each  
year. This permit shall conform to such reasonable rotation system  
as may be ordered by the proper state officer.

The permit shall conform to such reasonable rotation system  
as may be ordered by the proper state officer.

A description of the place of use under the permit, and to  
which such permit is appurtenant, is as follows:

	ACRES	1/4	1/4	SECTION	TOWNSHIP	RANGE,	WM
IRR OF CRAN	1.00	NE	SE	5	29	S 14	W
IRR OF CRAN	11.00	NW	SW	4	29	S 14	W
IRR OF CRAN	0.30	NW	NE	5	29	S 14	W
IRR OF CRAN	1.00	NE	NE	5	29	S 14	W
IRR OF CRAN	13.00	SE	NE	5	29	S 14	W
IRR OF CRAN	3.00	NW	SW	3	29	S 14	W
IRR OF CRAN	2.00	SW	SW	4	29	S 14	W
IRR OF CRAN	0.20	SE	SW	4	29	S 14	W
IRR OF CRAN	5.00	NE	SE	4	29	S 14	W
IRR OF CRAN	5.00	NW	NE	9	29	S 14	W
IRR OF CRAN	2.50	NE	NE	9	29	S 14	W
IRR OF CRAN	2.50	SW	NE	9	29	S 14	W
IRR OF CRAN	10.00	NE	NE	32	28	S 14	W
IRR OF CRAN	20.00	SE	NE	32	28	S 14	W
IRR OF CRAN	0.30	SE	NE	5	29	S 14	W
IRR OF CRAN	5.00	NE	SE	5	29	S 14	W
IRR OF CRAN	6.00	NW	SW	4	29	S 14	W
IRR OF CRAN	0.10	NW	NE	5	29	S 14	W
IRR OF CRAN	0.40	NE	NE	5	29	S 14	W

IRR OF CRAN	2.00	SW	NE	5	29	S	14	W
IRR OF CRAN	3.60	SE	NE	5	29	S	14	W
IRR OF CRAN	0.25	NW	SW	4	29	S	14	W
IRR OF CRAN	13.10	SW	SW	4	29	S	14	W
IRR OF CRAN	0.80	SE	SW	4	29	S	14	W
IRR OF CRAN	3.00	NE	NE	9	29	S	14	W
IRR OF CRAN	7.30	SW	NE	9	29	S	14	W
IRR OF CRAN	13.00	NW	SW	33	28	S	14	W
IRR OF CRAN	5.00	NE	SW	33	28	S	14	W
IRR OF CRAN	2.80	NE	NE	32	28	S	14	W
IRR OF CRAN	2.20	SE	NE	32	28	S	14	W
TEMP CONTROL	0.30	SE	NE	5	29	S	14	W
TEMP CONTROL	6.00	NE	SE	5	29	S	14	W
TEMP CONTROL	17.00	NW	SW	4	29	S	14	W
TEMP CONTROL	0.40	NW	NE	5	29	S	14	W
TEMP CONTROL	1.40	NE	NE	5	29	S	14	W
TEMP CONTROL	2.00	SW	NE	5	29	S	14	W
TEMP CONTROL	16.60	SE	NE	5	29	S	14	W
TEMP CONTROL	3.00	NW	SW	3	29	S	14	W
TEMP CONTROL	2.00	SW	SW	4	29	S	14	W
TEMP CONTROL	0.20	SE	SW	4	29	S	14	W
TEMP CONTROL	5.00	NE	SE	4	29	S	14	W
TEMP CONTROL	5.00	NW	NE	9	29	S	14	W
TEMP CONTROL	5.50	NE	NE	9	29	S	14	W
TEMP CONTROL	9.80	SW	NE	9	29	S	14	W
TEMP CONTROL	10.00	NE	NE	32	28	S	14	W
TEMP CONTROL	20.00	SE	NE	32	28	S	14	W
SUPP TEMP	0.25	NW	SW	4	29	S	14	W
SUPP TEMP	13.10	SW	SW	4	29	S	14	W
SUPP TEMP	0.80	SE	SW	4	29	S	14	W
SUPP TEMP	13.00	NW	SW	33	28	S	14	W
SUPP TEMP	5.00	NE	SW	33	28	S	14	W
SUPP TEMP	2.80	NE	NE	32	28	S	14	W
SUPP TEMP	2.20	SE	NE	32	28	S	14	W
CRAN HARVEST	0.30	SE	NE	5	29	S	14	W
CRAN HARVEST	6.00	NE	SE	5	29	S	14	W
CRAN HARVEST	17.00	NW	SW	4	29	S	14	W
CRAN HARVEST	0.40	NW	NE	5	29	S	14	W
CRAN HARVEST	1.40	NE	NE	5	29	S	14	W
CRAN HARVEST	2.00	SW	NE	5	29	S	14	W
CRAN HARVEST	16.60	SE	NE	5	29	S	14	W
CRAN HARVEST	3.00	NW	SW	3	29	S	14	W
CRAN HARVEST	2.00	SW	SW	4	29	S	14	W
CRAN HARVEST	0.20	SE	SW	4	29	S	14	W
CRAN HARVEST	5.00	NE	SE	4	29	S	14	W
CRAN HARVEST	5.00	NW	NE	9	29	S	14	W
CRAN HARVEST	5.50	NE	NE	9	29	S	14	W
CRAN HARVEST	9.80	SW	NE	9	29	S	14	W
CRAN HARVEST	10.00	NE	NE	32	28	S	14	W
CRAN HARVEST	20.00	SE	NE	32	28	S	14	W
FLOOD HARV	0.25	NW	SW	4	29	S	14	W
FLOOD HARV	13.10	SW	SW	4	29	S	14	W
FLOOD HARV	0.80	SE	SW	4	29	S	14	W
FLOOD HARV	13.00	NW	SW	33	28	S	14	W
FLOOD HARV	5.00	NE	SW	33	28	S	14	W
FLOOD HARV	2.80	NE	NE	32	28	S	14	W
FLOOD HARV	2.20	SE	NE	32	28	S	14	W
primary	1.00	NW	SW	4	29	S	14	W
primary	1.00	SW	NE	5	29	S	14	W

primary	1.00	SW	SW	4	29	S	14	W
primary	1.00	SW	NE	9	29	S	14	W
primary	1.00	NE	NE	32	28	S	14	W
Total:	289.90	primary and		139.15	supplemental acres.			

Actual construction work shall begin on or before DECEMBER 0, 1 and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1. Complete application of the water to the use shall be made on or before October 1, 2.

The permit is for the beneficial use of water. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

The right is subject to minimum flows established by the Water Resources Commission with an effective date prior to this right.



TOWNSHIP 29S RANGE 14W W. M. SECTION 3

NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT. IF OTHER THAN 40 ACRES																		
																69654		
																R-69708		

TOWNSHIP 29S RANGE 14W W. M. CARD #1 SECTION 4

NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
LOT 1	LOT 2	LOT 3	LOT 4	LOT 1	LOT 2	LOT 3	LOT 4	LOT 1	LOT 2	LOT 3	LOT 4	LOT 1	LOT 2	LOT 3	LOT 4			
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT IF OTHER THAN 40 ACRES																		
																14782	10728	11113
																5017	R-368	
																4982	3011	
																18237	13898	13795
																20090	15653	20828
																30253	23042	CANCELLED
																31234	24615	35720
																42825	30008	36503
																55207	41467	
																59907	45731	
																64733	47504	
																68371	49680	

**Conflict**  
 NCR - Not Built  
 Extension to 10/1/25  
 Pond & WR Conflict  
 Lorry Hump Cord  
 Nunn  
 WR Conflict  
 Ronny O Hugel

TC = Temperature Control (SEE BACK OF CARD FOR PLAT OF SECTION) FH = Flood Harvesting

TOWNSHIP 29S RANGE 14W W. M. CARD #2 SECTION 4

NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
ACREAGE IN LOT OR LEGAL SUBDIVISION AS SHOWN ON GOVERNMENT PLAT. IF OTHER THAN 40 ACRES																		
																69654		
																69654		

4.75  
 7.85  
 13.6

Windburst

TOWNSHIP 29S, RANGE 14W, W. M.

SECTION 5

NE				NW				SW				SE				APPLICA-TION NUMBER	PERMIT NUMBER	CERTIFI-CATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
Lot 1 Lot 2				Lot 3 Lot 4				TOTAL ACREAGE IN SUBDIVISION AS SHOWN ON GOVERNMENT PLAT										
3842 3825				3801 3790														
												34				18237	13898	13795
												2				20090	15653	20028
04 01 20 36																20179	15722	26279
340 375 230 255																20783	16263	CANCELLED
34 375 23 455				Front Cracking 5'				Front Cracking 3'								43000	32095	48119
T.C. P.H. 12				T.C. P.H. 13A												69654		
T.C. P.H. 12												5' 2' T.C. P.H. 12				69654		

- conflict  
 conflict  
 conflicting WR  
 cancelled  
 windburst

(SEE BACK OF CARD FOR PLAT OF SECTION)

TOWNSHIP 29S, RANGE 14W, W. M.

SECTION 9

NE				NW				SW				SE				APPLICA-TION NUMBER	PERMIT NUMBER	CERTIFI-CATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
				TOTAL ACREAGE IN SUBDIVISION AS SHOWN ON GOVERNMENT PLAT														
				51				01								23022	18143	23007
				53												35031	27437	36624
08				63				14								41401	30926	36502
				28												42825	32008	36503
				57				01								41401	30926	36502
30				20												46863	35039	39525
Harvest 02				Harvest 15A				Harvest 12								59907	45731	
												Don't 40				59907	45731	
30				73												65471	47958	2
T.C. P.H. 5B				T.C. P.H. 22												69654		
25																69654		

conflicting WR  
 not involved  
 conflicting WR  
 Not involved  
 windburst!

(SEE BACK OF CARD FOR PLAT OF SECTION)





AUG. 18, 1988  
 RECEIVED  
 22 1988  
 SOURCES OF  
 OREGON  
 BRIEFLY  
 WILLE.  
 DAY WAITING  
 - ANY  
 DUNE AHEAD  
 HE PROPERTY  
 CLOSE THE  
 AUGUST 31,  
 DOES NOT  
 WATER RIGHT  
 ECLATE BEING  
 VALIZE THIS  
 TIME AND  
 R. Scherer  
 3062

378-3739

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

Mill Creek Office Park • 555 13th. Street N.E.  
 Salem, Oregon 97310

Corporation

RECEIVED FROM Windhurst Rd. Water Application  Permit  Transfer  69654  
 TOTAL REC'D. \$ 2047<sup>00</sup>  CASH  CHECK  MONEY ORDER  
 By Wayne R. Scherer

EXAMINATION FEES:

RECORDING FEES:

Surface Water .....	\$ <u>- 0 -</u>	\$ <u>2047<sup>00</sup></u>
Ground Water .....	\$ _____	\$ _____
Transfer .....	\$ _____	\$ _____

MISCELLANEOUS FEES:

Copying .....   
 Certification .....   
 Misc. Recording .....  \$ \_\_\_\_\_  
 Protest .....   
 Extension of time ....

ADJUDICATION FEE ..... \$ \_\_\_\_\_

POWER LICENSE FEE ..... \$ \_\_\_\_\_

HYDROELECTRIC LICENSE FEE . \$ \_\_\_\_\_

EXAM FEE .... \$ \_\_\_\_\_

WATER WELL CONSTRUCTOR

Exam Fee  License Fee  ..... \$ \_\_\_\_\_

LANDOWNER'S WATER WELL PERMIT FEE ..... \$ \_\_\_\_\_

ALL OTHER: ..... \$ \_\_\_\_\_

SUSPENSE TOTAL \$ 2047<sup>00</sup>

BASIN MAPS ..... \$ \_\_\_\_\_

QUADRANGLE ACCOUNT ..... \$ \_\_\_\_\_

RECEIPT NO.

**55935**

Dated

8-22-88

By

H. Acheson



Key see R-69708 Application No. **69654**  
Permit No. ....

Indhurst Road Water Corporation  
Box 503, Bandon, OR 97411  
.....  
Construction .....  
of construction .....  
to .....  
Application of water .....  
to .....

NUMBER 9771

Check 2047<sup>00</sup> MO \_\_\_\_\_ Cash \_\_\_\_\_  
-----

- Surface Application
- Reservoir Application 0
- Ground Water Application 2047
- Transfer Application
- Power Claim
- Hydroelectric Examination
- Hydroelectric License
- Copying
- Assignment
- Extension of Time
- Other
- P-6
- Quadrangle
- Basin
- Protest
- Constructors Examination
- Constructors License
- Adjudication

69654

RECEIVED

AUG 22 1988

WATER RESOURCES DEPT.  
SALEM, OREGON

### WATER AVAILABILITY-SURFACE WATER APPLICATIONS

Name of Applicant Windhurst Road Water Corp. Application Number 69654

1. Is there a gaging station at or nearby the point of diversion for this application that gives a record of water supply?

Yes \_\_\_\_\_ No

If yes, how long is the record? \_\_\_\_\_ years, from 19 \_\_\_\_\_ through 19 \_\_\_\_\_.

Does the record include any extremely low flows years?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list low flow years.

2. Have any miscellaneous measurements been made at or near the point of diversion?

Yes \_\_\_\_\_ No

If yes, list measured flows and dates.

3. Has the stream or basin that is the source for this application ever been regulated for prior rights or minimum streamflows?

Yes \_\_\_\_\_ No

If yes, explain by giving dates and rights involved.

4. Do you observe this stream system in your routine, regular field work?

Yes \_\_\_\_\_ No

If yes, list number of years of observation.

5. Based on routine observation, do you think there would be enough water available in the quantity and at time needed to supply this application and do you think use may be made without harming vested and inchoate rights?

N/A

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what would you recommend for conditions for this permit.

J.P. Drolet  
WM Dist XIX  
08-15-88





## Water Resources Department

3850 PORTLAND ROAD NE, SALEM, OREGON 97310

PHONE

378-3066

August 9, 1988

Windhurst Road Water Corporation  
PO Box 503  
Bandon, OR 97411

REFERENCE: File 69654

We received the application you submitted on June 30, 1988, describing the proposed use of 34.79 cubic feet per second of water from Bill Creek for irrigation and cranberry irrigation, temperature control and harvesting. The supporting data and fees were also received. Our Receipt 55561 was handed to Wayne Sherer. The application has been filed, assigned number 69654 and will be reviewed in detail as time permits.

Applications which are received in proper form with required maps, supporting data and fees, can be considered for approval by issuance of a permit after the 30-day waiting period. Applications which are defective, conflict with existing rights or require additional information will, if necessary, be returned for correction and/or completion. Due to the present backlog of applications and other matters needing attention we have been unable to process applications as rapidly as would be liked. If you feel that a delay in the processing of the application will cause a hardship, please advise.

You will be required to hire a Certified Water Right Examiner to survey the extent of use of water perfected under the terms of a permit that may be issued approving your application. Within one year of application of water to beneficial use or the date to make complete application of water allowed in the permit, you will be required to submit a map of the survey prepared by the Certified Water Right Examiner.

If your application is approved, the project described in the application will be subject to the Water Resources Commission's Basin Program statements, existing minimum flows and demands of prior rights during periods of low water.

Sincerely,

WAYNE J. OVERCASH  
Water Rights Specialist  
Application/Permit Section

WJO:lcj