

# Mailing List for MO Copies

Application P 828 92

MO Date January/6, 1998

## Original mailed to:

Applicant: \_\_\_\_\_ Is there a new address? Y \_\_\_\_\_

1. WRD - File # 82892
2. WRD - Watermaster # 14
3. WRD - Regional Manager (not Bob Main): SW

Copies Mailed	
By: <u>CWK</u>	(SUPPORT STAFF)
on: <u>2/2/98</u>	(DATE)

## Other Commenters:

4. ODFW District Biologist: Y Jerry Vogt
5. Water Watch of Oregon: Y \_\_\_\_\_
6. Other Commenters Y \_\_\_\_\_

## Other Interested Persons (CWRE, Agent, etc.)

7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

## CASEWORKER :

Information	Below	This	For	Mitigation	Team	Use	Only		
SMBS	<u>SMSS</u>	<u>BPC</u>	KR1	KR2	<u>J</u>	BSD	BSD2	1A	MD
MD1	MD2	MD3	B57	B58	BYPASS	B51A		Basin	_____

BPC 4-1 10-31



# Oregon

John A. Kitzhaber, M.D., Governor

January 16, 1998

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

GARY R PELLETT  
2550 OLD MILITARY RD  
CENTRAL POINT, OR 97502

Reference: File P-82892

Dear Applicant:

Thank you for your continuing efforts in our program for authorizing exemptions for existing ponds and reservoirs. We know it has been a long and complicated process, and we appreciate your cooperation.

As indicated in our letters to you last November, we had previously received written comments indicating that your reservoir could be detrimental to fish or might cause injury to other water rights. You took advantage of an opportunity that was provided to address those comments. The additional information that you submitted was sent to the commenter indicating that they must reply if there are still concerns regarding detriment to fish or injury to other water rights.

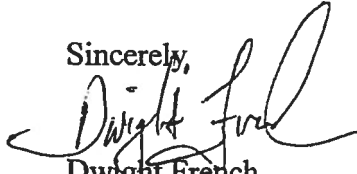
Since then, we have reviewed all the information available to us, including any reply from the commenter, and have determined that certain conditions are necessary to mitigate the potential harm to fish or other water rights. The enclosed Mitigation Order spells out the additional conditions we are proposing.

If you agree with these conditions, and comply with the Mitigation Order, the process will be complete.

If you disagree with this order, you may request a contested case hearing, and submit in writing your reasons why the order should be changed or rescinded. You may wish to submit maps or sketches to help us to better understand the particulars of your situation. Once we receive your request for a contested case hearing, we will contact you to discuss the situation and how we might be able to settle disagreements without holding a hearing. If we are unable to agree on a solution, we will schedule a contested case hearing at a time that is agreeable to both you and the Department. The appeal rights are described in more detail in the order enclosed.

Once again, thank you for your participation in this program. If you have any questions please call one of the water rights staff listed below. My extension number is 268.

Sincerely,



Dwight French  
Water Rights Section Manager

Enclosures

cc: Watermaster

Russ Klassen	1-800-624-3199 Ext 266
Laura Snedaker	Ext 331
Dallas Miller	Ext 272

Oregon Water Resources Department  
Water Rights Division

Notice of Existing Reservoir  
Number P-82892

## ***Reservoir Mitigation Order***

### ***Application History***

A reservoir was constructed prior to January 1, 1995. As evidence of the right to store water, pursuant to ORS 537.405(2)(a), notice of existing reservoir was submitted.

Pursuant to ORS 537.405(4)(a) the Department has received information from Oregon Department of Fish and Wildlife demonstrating that the reservoir poses a significant detrimental impact to existing fishery resources.

Pursuant to ORS 537.405(4)(b) the Department has received information demonstrating that the reservoir results in injury to an existing water right.

The reservoir owner has submitted a rebuttal to the information that was received. The rebuttal disputed the existence of detrimental impact to the existing fishery and/or injury to an existing water right. However, sufficient evidence is not available in the file to overcome the reported detrimental impact and/or injury.

ORS 537.405(7) specifies that "...the director shall require the owner of the reservoir to take appropriate action to mitigate injury to existing water rights or impact to the existing fishery resource."

Therefore, the Department has determined that with the following additional mitigation condition(s), the injury to existing water rights and/or detrimental impact to existing fishery resources, described above, will be mitigated.

### **Order**


Live stream flow must be passed when required to satisfy existing water rights. In order to substantiate live flow is being passed, measuring devices may be required.

The reservoir owner is required to by-pass flows from April 1 through October 31.

Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion.

Therefore, pursuant to ORS 537.405, the use evidenced by notice of existing reservoir number P-82892, shall be allowed to continue if the injury/negative impact of the reservoir is mitigated as described above.

DATED January 16, 1998

  
\_\_\_\_\_  
Martha O. Pagel  
Director

## Notice of Right to Contested Case Hearing

The owner of the reservoir that is the subject of this mitigation order may request a contested case hearing if the owner disagrees with the order. Most disagreements are settled through a series of informal discussions before the hearing date arrives.

If the department does not receive a request for hearing within the time stated in this notice you have waived your right to a hearing under ORS Chapter 183, unless your failure to request a hearing was beyond your reasonable control, as provided in OAR 137-03-075.

The record of this proceeding to date, including information in Department files on the subject of this proceeding, is automatically part of the contested case record upon default for the purpose of proving a prima facie case.

In order to process your request for a contested case hearing please include the following in writing:

- The reference number (located near the top right corner of the order.);
- Your name, address, and telephone number;
- A detailed description of why the condition(s) proposed in this order is not necessary to protect existing water rights or fishery resources;
- Any citation of legal authority to support your protest, if known.

Your request for a contested case hearing must be received by the Department no later than 60 days after the date of this order.

Send your request for a contested case hearing to:

Ponds Program Appeals  
Water Rights Section  
Oregon Water Resource Department  
158 12<sup>th</sup> ST NE  
Salem OR 97310

<u>APP #</u>	<u>NAME</u>	<u>COMMENTS</u>
P 82892	PELLETT	CONDITION STILL STANDS WHEN REGULATION OCCURS MUST BYPASS FLOW ON TALLOWBOX CR.

\*\*\*\*\*  
 \*\*\* ERROR TX REPORT \*\*\*  
 \*\*\*\*\*

TX FUNCTION WAS NOT COMPLETED

TX/RX NO. 2873  
 CONNECTION TEL 915414712876  
 CONNECTION ID  
 START TIME 01/12 11:07  
 USAGE TIME 00'00  
 PAGES 0  
 RESULT NG 0 #018

*FAILED LATER TO*

*THIS #*  
**OREGON  
 WATER  
 RESOURCES  
 DEPARTMENT**



Commerce Building  
 158 12th Street NE  
 Salem OR 97310-0210

To Bruce Sund Date: 1/12/98 Page 1 of 25

776 7189

Fax # (541) ~~471-2876~~

From Russ Klassen

Comments: 3 POND FILES w/ PERMITS  
FROM THE APPLICANT TO BE ADDED  
TO YOUR STACK

**Fax. 503-378-2496**

- |               |                                 |                            |
|---------------|---------------------------------|----------------------------|
| Dam Safety    | Director's Office               | GIS / Mapping              |
| Groundwater   | Hanford Studies                 | Hearings                   |
| Hydrographics | Information (Computer) Services | Legislative & Rules Coord. |



DEC 11 1997

WATER RESOURCES DEPT  
SALEM, OREGON

Gary & Chris Pellett  
2550 Old Military Road Central Point, Oregon 97502  
TEL: 541-773-5009 FAX: 541-773-5080

December 9, 1997

Water Resource Department  
Commerce Building  
158 12th Street NE  
Salem, OR 97310-3739

Re: File P 82892, Exempt Reservoir Application.

As the property owner I would like to comment on the response from the Watermaster of Jackson County and the ODFW Biologist comment on our application.

Watermaster Comment - The pond on our property is located in a seasonal drainage which has water flow only at times of very heavy rainfall. The drainage is from east to west and eventually flows into Thompson Creek. On the east side of the pond is an irrigation canal for the local irrigation district. The seasonal water flow enters this irrigation canal and is carried away from the pond and the natural drainage, therefore; the pond does not interfere with other water rights since it does not receive the run-off. In actuality the irrigation canal is carrying the water from the drainage area to the adjacent properties with irrigation rights.

Department of Fish & Wildlife Comments - The pond has no impact on Tallow Box Creek. It is located outside of the Tallow Box Creek drainage. Our request for use of this pond is to fill the pond in the winter months with the source of water being Tallow Box Creek which does run through our property. As pointed out in the comments by ODFW, they do not hold in-stream water rights for Tallowbox Creek and should not make requirements on the taking of water from this stream. Since we have proposed to take water to fill this pond only in the winter months, then the concern about water temperature impact on Thompson Creek is invalid.

I wanted to comment on the history of this pond. We believe that this pond has existed for over 50 years. We purchased the property several years ago and became aware this pond had never been registered and therefore registered it.

The pond has served several functions for many years. It is a important habitat for wildlife in the area. Wood ducks nest at the pond every spring. It is also important to amphibians as a reproduction site. Many mammals in the area come to this pond

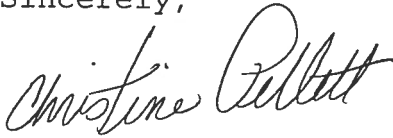
DEC 11 1997

WATER RESOURCES DE  
SALEM, OREGON

for water. Muskrats and beavers have made temporary use of the site. It also has provided protection to our neighbors home (to the west of our land) by slowing the water in the drainage and preventing possible flooding of their home.

Our plans for the pond are simple. We will use it in early Spring for frost control and also maintain its existing use for wildlife habitat.

Sincerely,

A handwritten signature in cursive script that reads "Christine Pellett". The signature is written in dark ink and is positioned below the typed name.

Christine Pellett

## MITIGATION CONDITIONS

File # P- 82492  
Date 11-7-97  
LKS

### Oregon Department of Fish and Wildlife Conditions

\_\_\_\_\_ In accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate bypass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream passage for fish. (SMBS)

\_\_\_\_\_ Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion. (SMSS)

\_\_\_\_\_ The reservoir owner is required to by-pass flows from \_\_\_\_\_ through \_\_\_\_\_ (BPC)

### Water Right Related Conditions

\_\_\_\_\_ The pond may be filled one time only per year. No diversion of water to storage can occur during times all water rights are not met on the John Day river System. (KR1)

\_\_\_\_\_ If required by the Watermaster, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Watermaster (Department). (KR2)

✓ \_\_\_\_\_ Live stream flow must be passed when required to satisfy existing water rights. In order to substantiate live flow is being passed, measuring devices may be required. (J)

\_\_\_\_\_ Live flow must be by-passed all year. (BSD)

\_\_\_\_\_ Any secondary use of stored water is limited each year to the capacity of the reservoir. (BSD2)

\_\_\_\_\_ The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

RECEIVED

AUG 29 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

WATERMASTER COMMENTS FOR  
HB 2153 CERTIFICATES  
HB 2376 NOTICES

Watermaster Name LARRY MUMFORD  
Date 7-29-97

Please attach copy of HB 2153 Certificate.

HB 2376 Notice of Exempt Reservoir Application # P 82892

\*\*Attach additional sheets if necessary.

Please specify which reservoir(s)/ponds(s) the comments pertain to:

*Describe by name, number or Township Range Section and 1/4 1/4 if necessary. If comments refer to all reservoir listed please specify. Please provide enough information to accurately describe which reservoir the comment(s) pertains to.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Does the reservoir/pond cause injury to an existing water right? Specify which water right and the evidence which supports that finding. Please describe for each reservoir listed above. If the water right and the supporting evidence are the same please indicate.

Regulate during season <sup>6-06</sup> C-12361  
WOULD CAUSE INJURY TO  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*SEE BACK OF PAGE FOR LIST OF CONDITIONS TO MITIGATE INJURY\*\*\*\*\*

Which of the following conditions are required to mitigate the described injury?

(1)

The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

(2)

The following provision for a measuring device shall be effective:

- (a) the pump system shall include an access port for measuring the water level;
- (b) the pump system shall include an in-line flow meter or other suitable device for measuring the water to which the user is entitled;
- (c) the type and plans of the measuring device be approved by the Watermaster before the beginning of construction work and that the measuring device be installed under the general supervision of said Watermaster.

(3)

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.

(4)

A staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I. Additionally, if the reservoir is located in channel then weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, a gated valve outlet must be installed.

\*Please specify whether the installation of the weir(s) will provide no public benefit.

(5)

Live stream flow must be by-passed between \_\_\_\_\_ and \_\_\_\_\_.

*When Regulation occurs*

(6)

The period of use has been limited to \_\_\_\_\_ through \_\_\_\_\_.

Other (Please specify below)

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825937

INSTRUCTIONS

Hi-lite answer to each question. Initial on line that follows

HB2376 PROCESSING GUIDELINES

Ap. No. P82892

(1) PULL AND ATTACH ASSOCIATE 2153 FILE IF ANY

(2) 2153 ELIGIBLE?



(3) CHECK QUAD & AERIAL, STILL 2153 ELIGIBLE?



(4) ERRONEOUS FILING? (HAS A WATER RIGHT)



(5) SORT BY BASIN AND SUB-BASIN

(6) DISTRIBUTION PAST 5 YEARS?



(7) FUTILE EFFORT? (NO BENEFIT FROM DENIAL)



(8) WATERMASTER FINAL CHECK

CONCERN?

NO CONCERN?

WATERMASTER TO OWRD, SALEM  
LETTER OF CONCERN  
8-01-97

WATERMASTER TO OWRD, SALEM  
NO CONCERN"  
8-01-97

7-29-97



# Oregon Water Resources Department Notice of Exempt Reservoir

RECEIVED

DEC 30 1996

For reservoirs built before January 1, 1995, that:

- Store less than 9.2 acre-feet of water, or
- Have a dam less than 10 feet high.

WATER RESOURCES DEPT.  
SALEM, OREGON

The deadline for submitting a Notice of Exempt Reservoir is January 31, 1997.

Landowner: Pellett, Gary R.  
Last name First name MI

Authorized Agent: \_\_\_\_\_  
Last name First name MI

Home Address: 2550 Old Military Road  
Central Point OR 97502

Property Address: 184 Hogan Rd. Jacksonville OR (= no mail service). 97530

Phone: 541-772-9153 773-5009  
Home Work

FAX: 541-773-5080 E-Mail Address: \_\_\_\_\_

A. County of use: Jackson B. River basin (see reverse): 15-Rogue

C. Legal description of reservoir location:

Township	Range	Section	Quarter/Quarter	Tax Lot #
39	4W	5	S1W NE	200

D. Name, if any, of reservoir: \_\_\_\_\_ E. Reservoir in existence since: - / - / 1940  
MM DD YY

F. Source of water: In winter, filled from Tallowbox Creek. which flows into Thompson Creek - Applejack  
Name of river or creek Name of river or creek River.

G. Maximum height of dam: 9.5 feet.

H. Quantity of water stored in reservoir at maximum capacity (see reverse): 0.1 acre-feet.

I. Water stored in reservoir is used for (see reverse): Programmed for frost control and general agriculture - nursery.

J. Rate and area of use—Refer to chart on the back of this form. For each type of water use listed in Item I, show the quantity of water used and, if applicable, the number of acres on which water is used.

**BEFORE YOU SIGN AND SUBMIT THIS APPLICATION . . . HAVE YOU:**

Answered each question on this form as completely as possible?

Attached a legible map showing township, section, range, quarter-quarter & tax lot number?

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

Gary R. Pellett Owner - Gary R. Pellett. 23 Dec 1996  
Signature of Landowner/Agent (Printed name and title) (Date)

For Department Use P-52892 10-95  
File # Date received

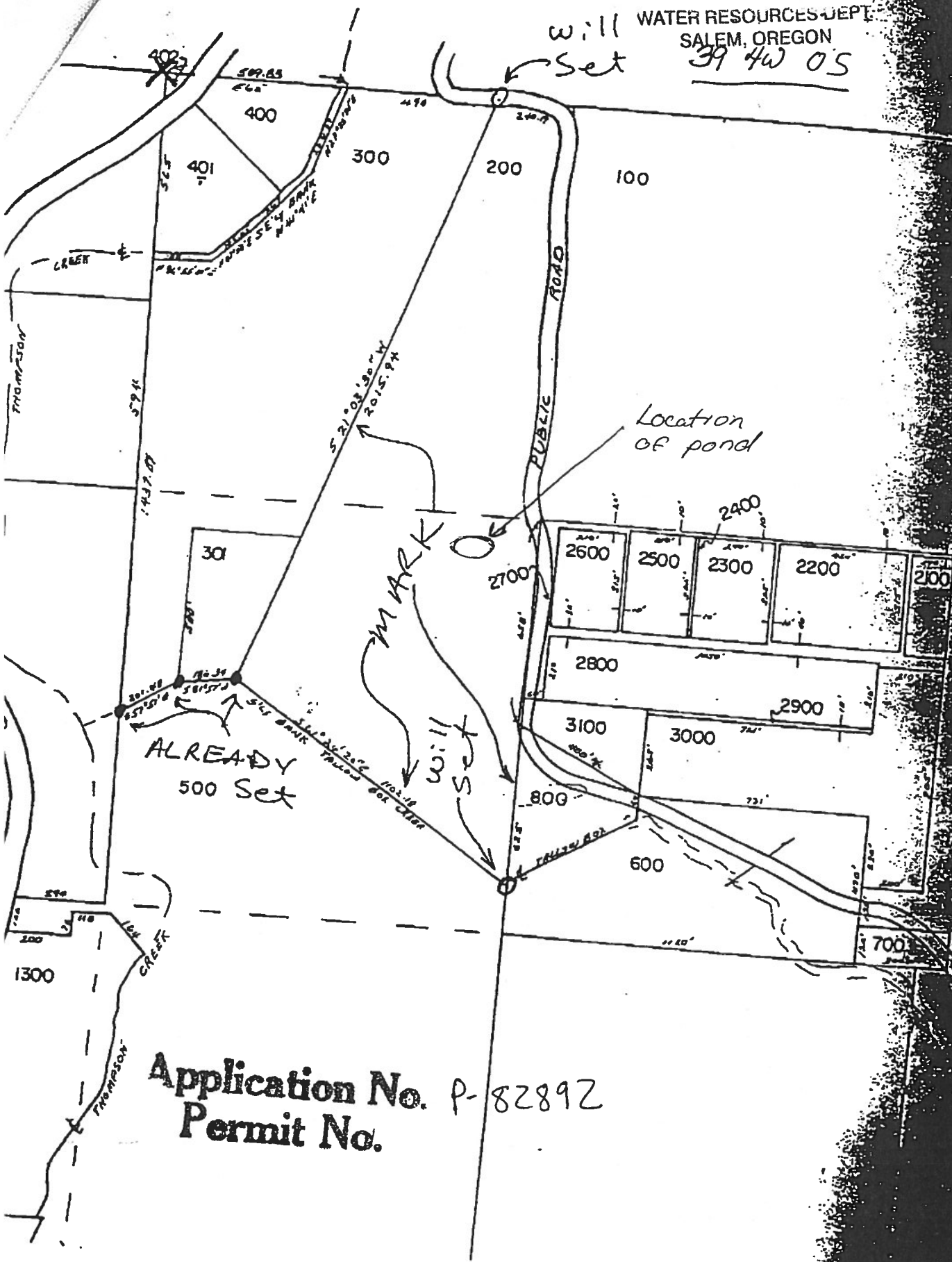
P 82892

4W 32

DEC 30 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

39 4W 05



Application No. P-82892  
Permit No.



RECEIVED

JAN - 5 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

Oregon



DEPARTMENT OF  
FISH AND  
WILDLIFE

ROGUE DISTRICT  
OFFICE

December 31, 1997

Mr. Dwight French  
Water Resources Department  
Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210

RE: Exempt Reservoir Application P-82892

Dear Dwight:

I have reviewed the comments submitted by the applicant regarding the above exempt reservoir application. After reviewing this new information, I request that my original comments on this application be modified as follows:

1. Due to the water temperature and instream flow concerns in Thompson Creek outlined in our original comments, ODFW believes that the requirement for the applicant to bypass (not store) live streamflow from April 1 – October 31 is still valid.
2. Since the POD does not involve a dam or other structure that blocks fish passage, I have no objection to the removal of the requirement to provide fish passage facilities or devices at the POD.
3. Because game fish are present at the POD, ODFW believes that the original comments requiring the applicant to provide fish screening are still valid and requests that WRD include them in the final order.

Thank you for the opportunity to comment on this application.

Sincerely,

A handwritten signature in blue ink that reads "Jerry Vogt".

Jerry Vogt  
Assistant District Fish Biologist

cc: Bruce Sund, WRD, Grants Pass  
Larry Menteeer, WRD, Medford  
File



1495 E Gregory Road  
Central Point, OR 97502  
(503) 826-8774  
FAX (503) 826-8776

DEC 11 1997

WATER RESOURCES DEPT  
SALEM, OREGON

Gary & Chris Pellett  
2550 Old Military Road Central Point, Oregon 97502  
TEL: 541-773-5009 FAX: 541-773-5080

December 9, 1997

Water Resource Department  
Commerce Building  
158 12th Street NE  
Salem, OR 97310-3739

Re: File P 82892, Exempt Reservoir Application.

As the property owner I would like to comment on the response from the Watermaster of Jackson County and the ODFW Biologist comment on our application.

Watermaster Comment - The pond on our property is located in a seasonal drainage which has water flow only at times of very heavy rainfall. The drainage is from east to west and eventually flows into Thompson Creek. On the east side of the pond is an irrigation canal for the local irrigation district. The seasonal water flow enters this irrigation canal and is carried away from the pond and the natural drainage, therefore; the pond does not interfere with other water rights since it does not receive the run-off. In actuality the irrigation canal is carrying the water from the drainage area to the adjacent properties with irrigation rights.

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I wanted to comment on the history of this pond. We believe that this pond has existed for over 50 years. We purchased the property several years ago and became aware this pond had never been registered and therefore registered it.

The pond has served several functions for many years. It is a important habitat for wildlife in the area. Wood ducks nest at the pond every spring. It is also important to amphibians as a reproduction site. Many mammals in the area come to this pond

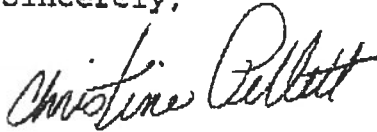
DEC 11 1997

WATER RESOURCES D.  
SALEM, OREGON

for water. Muskrats and beavers have made temporary use of the site. It also has provided protection to our neighbors home (to the west of our land) by slowing the water in the drainage and preventing possible flooding of their home.

Our plans for the pond are simple. We will use it in early Spring for frost control and also maintain its existing use for wildlife habitat.

Sincerely,



Christine Pellett

**MITIGATION CONDITIONS**File # P- 82892Date 11-7-97LKS**Oregon Department of Fish and Wildlife Conditions**

\_\_\_\_\_ In accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate bypass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream passage for fish. (SMBS)

\_\_\_\_\_ Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion. (SMSS)

\_\_\_\_\_ The reservoir owner is required to by-pass flows from \_\_\_\_\_ through \_\_\_\_\_ (BPC)

**Water Right Related Conditions**

\_\_\_\_\_ The pond may be filled one time only per year. No diversion of water to storage can occur during times all water rights are not met on the John Day river System. (KR1)

\_\_\_\_\_ If required by the Watermaster, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Watermaster (Department). (KR2)

✓ \_\_\_\_\_ Live stream flow must be passed when required to satisfy existing water rights. In order to substantiate live flow is being passed, measuring devices may be required. (J)

\_\_\_\_\_ Live flow must be by-passed all year. (BSD)

\_\_\_\_\_ Any secondary use of stored water is limited each year to the capacity of the reservoir. (BSD2)

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RECEIVED

AUG 29 1997

WATERMASTER COMMENTS FOR  
HB 2153 CERTIFICATES  
HB 2376 NOTICES

WATER RESOURCES DEPT.  
SALEM, OREGON

Watermaster Name Loery Hunter  
Date 7-29-97

Please attach copy of HB 2153 Certificate.

HB 2376 Notice of Exempt Reservoir Application # P 82892

\*\*Attach additional sheets if necessary.

Please specify which reservoir(s)/ponds(s) the comments pertain to:  
*Describe by name, number or Township Range Section and 1/4 1/4 if necessary. If comments refer to all reservoir listed please specify. Please provide enough information to accurately describe which reservoir the comment(s) pertains to.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Does the reservoir/pond cause injury to an existing water right? Specify which water right and the evidence which supports that finding. *Please describe for each reservoir listed above. If the water right and the supporting evidence are the same please indicate.*

Regulate during season 806 C-12361  
WOULD CAUSE INJURY TO  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*SEE BACK OF PAGE FOR LIST OF CONDITIONS TO MITIGATE INJURY\*\*\*\*\*

Which of the following conditions are required to mitigate the described injury?

(1)

The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

(2)

The following provision for a measuring device shall be effective:

- (a) the pump system shall include an access port for measuring the water level;
- (b) the pump system shall include an in-line flow meter or other suitable device for measuring the water to which the user is entitled;
- (c) the type and plans of the measuring device be approved by the Watermaster before the beginning of construction work and that the measuring device be installed under the general supervision of said Watermaster.

(3)

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.

(4)

A staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I. Additionally, if the reservoir is located in channel then weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, a gated valve outlet must be installed.

\*Please specify whether the installation of the weir(s) will provide no public benefit.

(5)

Live stream flow must be by-passed between within Regulation occurs and \_\_\_\_\_.

(6)

The period of use has been limited to \_\_\_\_\_ through \_\_\_\_\_.

Other (Please specify below)

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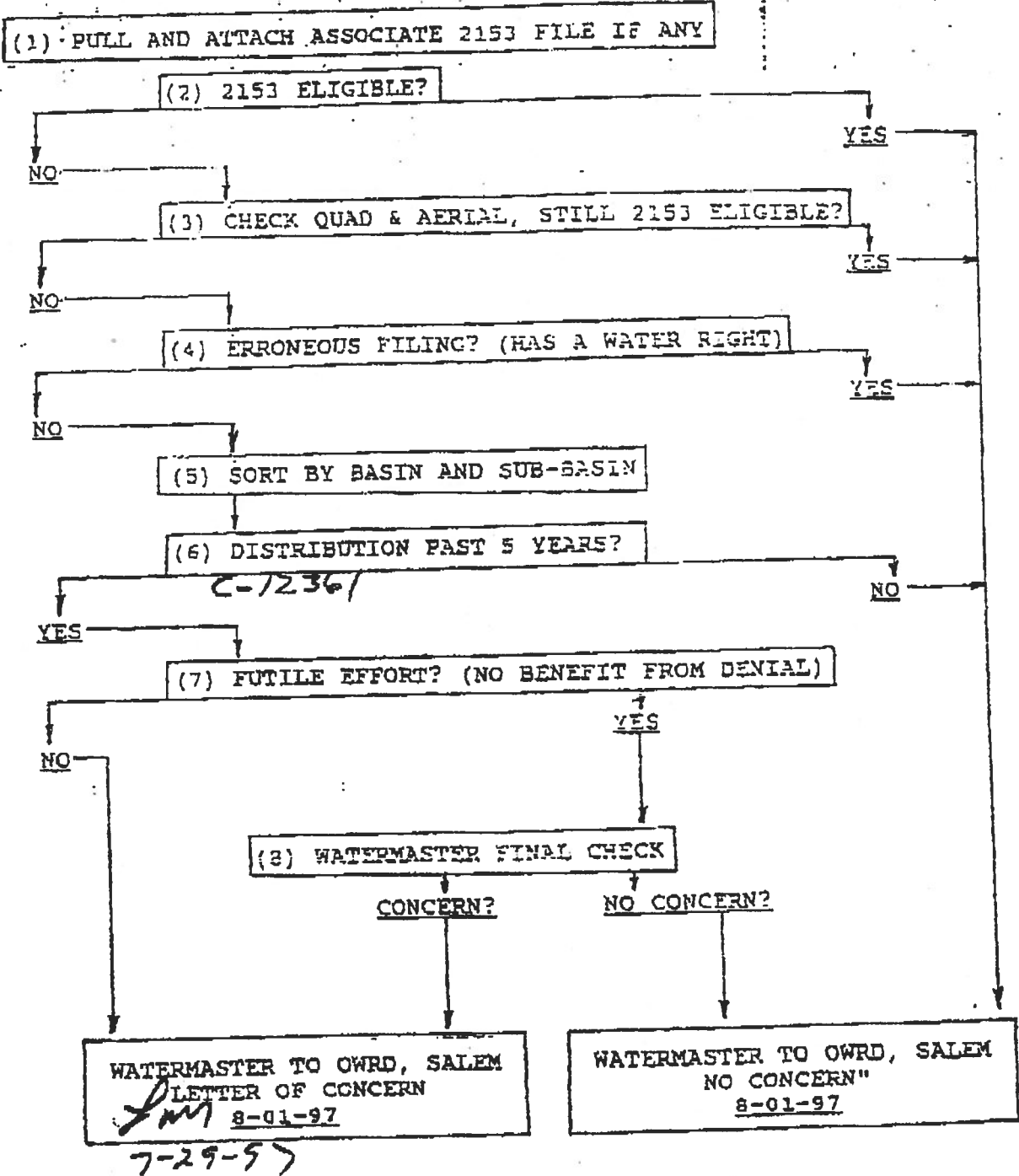
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5037

Hi-lite answer to each question. Initial on line that follows

HB2376 PROCESSING GUIDELINES

Ap. No. P82892





# Oregon Water Resources Department

## Notice of Exempt Reservoir

For reservoirs built before January 1, 1995, that:

- Store less than 9.2 acre-feet of water, or
- Have a dam less than 10 feet high.

# RECEIVED

DEC 30 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

The deadline for submitting a Notice of Exempt Reservoir is January 31, 1997.

Landowner: Pellett, Gary R.  
 Last name First name MI

Authorized Agent: \_\_\_\_\_  
 Last name First name MI

Home Address: 2550 Old Military Road MI  
Central Point, OR 97502

Property Address: 184 Hogan Rd. Jacksonville OR (= no mail service). 97530

Phone: 541-772-9153 773-5009  
 Home Work

FAX: 541-773-5080 E-Mail Address: \_\_\_\_\_

A. County of use: Jackson B. River basin (see reverse): 15-Rogue

### C. Legal description of reservoir location:

Township	Range	Section	Quarter/Quarter	Tax Lot #
39	4W	5	<u>SU NE</u>	200

D. Name, if any, of reservoir: \_\_\_\_\_ E. Reservoir in existence since: - / - / 1940  
 MM DD YY

F. Source of water: In winter, filled from Tallowbox Creek. which flows into Thomson Creek - Archelegate River.  
 Name of river or creek Name of river or creek

G. Maximum height of dam: 9.5 feet.

H. Quantity of water stored in reservoir at maximum capacity (see reverse): 0.1 acre-feet.

I. Water stored in reservoir is used for (see reverse): Programmed for frost control and General agriculture - nursery.

J. Rate and area of use—Refer to chart on the back of this form. For each type of water use listed in Item I., show the quantity of water used and, if applicable, the number of acres on which water is used.

**BEFORE YOU SIGN AND SUBMIT THIS APPLICATION . . . HAVE YOU:**

Answered each question on this form as completely as possible?

Attached a legible map showing township, section, range, quarter-quarter & tax lot number?

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

Gary R. Pellett Owner - Gary R. Pellett 23 Dec 1996  
 (Signature of Landowner/Agent) (Printed name and title) (Date)

P 83892

This Notice of Exempt Reservoir should be mailed directly to: Water Resources Department, Commerce Building, 158 12th Street NE, Salem, OR 97310-0210.

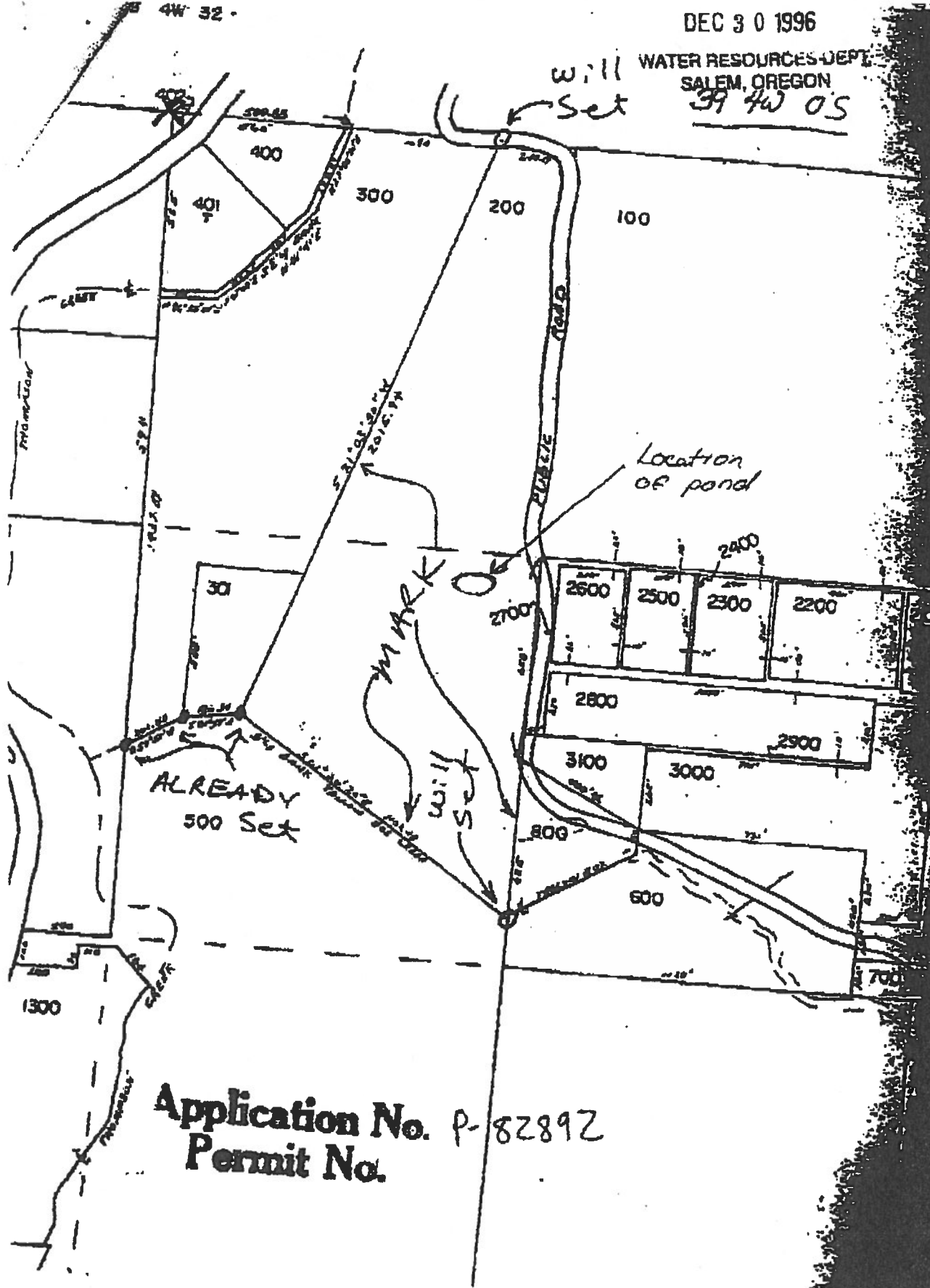


DEC 30 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

39 40 05

will set



Application No. P-82892  
Permit No.

Date: Fri, 2 Jan 1998 09:08:11 -0800 (PST)  
X-Sender: frenchdw@mailhub.wrd.state.or.us  
To: Russell.W.KLASSEN@wrд.state.or.us  
From: Dwight W French <Dwight.W.FRENCH@wrд.state.or.us>  
Subject: Re: Exempt Reservoir Mitigation Orders  
Cc: Laura.K.SNEDAKER@wrд.state.or.us

>Date: Fri, 02 Jan 1998 09:14:18  
>To: "Jerry Vogt" <medodfw@cdsnet.net>  
>From: Dwight W French <Dwight.W.FRENCH@wrд.state.or.us>  
>Subject: Re: Exempt Reservoir Mitigation Orders

>  
>Happy New Year!

>  
>I'm going to have Russ Klassen of my staff look into this to see what happened.

>  
>If you will confirm that you want fish screening on the file numbers listed below we will include that condition on the mitigation order. If the applicant thinks that is unreasonable, they can challenge.

>  
>Dwight

>  
>  
>  
>  
>  
>  
>At 05:42 PM 12/31/97 -0800, you wrote:

>>Dwight,

>>As I mentioned in my phone message to you, I discovered that a number of  
>>the exempt reservoir mitigation orders that WRD sent out omitted my  
>>recommendations for fish screening and/or fish passage devices. I'm not  
>>sure what happened - the hard copy of my comments that I got back with the  
>>applicant's comments doesn't show any of the boxes checked for any of the  
>>fisheries concerns, even though my original hard copies ( and my computer  
>>files for these comments) do have the boxes checked. Maybe when you  
>>printed these files the boxes were left unchecked - could you look at some  
>>of these files on the computer to see if the same is true?

>>  
>>The following is a list of applications for which I recommended both fish  
>>screening and fish passage; none of these mitigation orders sent to the  
>>applicant's have screening requirements and not all of them have fish  
>>passage requirements:

>>  
>>P-78796

>>P-81681

>>P-81341

>>P-82892

>>P-82595

>>P-83066

>>P-83005

>>P-82818

>>P-82995

- >>P-83142
- >>P-82939
- >>P-82040
- >>P-82993
- >>P-82006
- >>P-81832
- >>P-81781
- >>P-81442

>>  
 >>I'm sure there are more than those listed here because I have only looked  
 >>at the mitigation orders for the people who sent in protests. There are  
 >>probably mitigation orders that were sent to people who didn't protest that  
 >>have omitted screening or passage conditions.

>>  
 >>At any rate, this may cause some problems, because these applicants should  
 >>get a corrected final order that will contain these conditions, and that  
 >>may give them more to complain about.

>>  
 >>Please look into this to see if you can tell why these conditions were  
 >>omitted. Thanks for your help.

>>  
 >>  
 >>  
 >

Dwight French  
 Water Rights Section Manager  
 Oregon Water Resources Department  
 158 12th ST NE, Salem Oregon 97310  
 1 800 624-3199 ext. 268 or 503 378-8455 x268  
 FAX: 503 378-6203

=====> In the middle of difficulty lies opportunity.



# 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

November 10, 1997

FILE#: P 82892

GARY R PELLETT  
2550 OLD MILITARY RD  
CENTRAL POINT, OR 97502

Dear Reservoir Owner,

You submitted a Notice of Exempt Reservoir under *ORS 537.405 (HB 2376)*. HB 2376 provided an opportunity for the Oregon Department of Fish and Wildlife to comment on how a specific reservoir(s) caused injury to an existing fishery resource. In addition the same law allowed members of the public to comment on how the storage or use of the water caused an injury to an existing water right. This comment period ended on August 1, 1997.

The Department received the attached injury allegation(s) related to your reservoir(s), as provided for in *ORS 537.405*. If you do not agree with the allegation of injury, please submit detailed information to the Department explaining why or how the allegation is in error. Your response must be postmarked no later than *December 10, 1997*.

The Department will review any submission you may make and determine if a Mitigation Order is required. If the Department finds that the allegation is factual and verifiable, the Department will issue a Mitigation Order requiring that the attached conditions, or other conditions that prove to be necessary after reviewing any information that is submitted, be met in order for the reservoir to maintain an exempt status.

If you receive a Mitigation Order, you may request a Contested Case Hearing to contest the findings of the Department and the allegation of injury. Information on how to request a Contested Case Hearing will be provided with the mitigation order, if issued.

If you have any questions, please call the Water Rights Information Group at (503) 378-3739 extension. 499.

Water Right Section

## MITIGATION CONDITIONS

File # P- 82892  
Date 11-7-97  
LK3

### Oregon Department of Fish and Wildlife Conditions

- \_\_\_\_\_ In accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate bypass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream passage for fish. (SMBS)
- \_\_\_\_\_ Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion. (SMSS)
- \_\_\_\_\_ The reservoir owner is required to by-pass flows from \_\_\_\_\_ through \_\_\_\_\_ . (BPC)

### Water Right Related Conditions

- \_\_\_\_\_ The pond may be filled one time only per year. No diversion of water to storage can occur during times all water rights are not met on the John Day river System. (KR1)
- \_\_\_\_\_ If required by the Watermaster, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Watermaster (Department). (KR2)
- ✓ \_\_\_\_\_ Live stream flow must be passed when required to satisfy existing water rights. In order to substantiate live flow is being passed, measuring devices may be required. (J)
- \_\_\_\_\_ Live flow must be by-passed all year. (BSD)
- \_\_\_\_\_ Any secondary use of stored water is limited each year to the capacity of the reservoir. (BSD2)
- \_\_\_\_\_ The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

RECEIVED

AUG 29 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

WATERMASTER COMMENTS FOR  
HB 2153 CERTIFICATES  
HB 2376 NOTICES

Watermaster Name Lesley Hunter  
Date 7-29-97

Please attach copy of HB 2153 Certificate.

HB 2376 Notice of Exempt Reservoir Application # P 82892

\*\* Attach additional sheets if necessary.

Please specify which reservoir(s)/ponds(s) the comments pertain to:

*Describe by name, number or Township Range Section and 1/4 1/4 if necessary. If comments refer to all reservoir listed please specify. Please provide enough information to accurately describe which reservoir the comment(s) pertains to.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Does the reservoir/pond cause injury to an existing water right? Specify which water right and the evidence which supports that finding. Please describe for each reservoir listed above. If the water right and the supporting evidence are the same please indicate.

Regulate during season for C-12361  
WOULD CAUSE INJURY TO ↑  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*SEE BACK OF PAGE FOR LIST OF CONDITIONS TO MITIGATE INJURY\*\*\*\*\*



Which of the following conditions are required to mitigate the described injury?

(1)

The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

(2)

The following provision for a measuring device shall be effective:

- (a) the pump system shall include an access port for measuring the water level;
- (b) the pump system shall include an in-line flow meter or other suitable device for measuring the water to which the user is entitled;
- (c) the type and plans of the measuring device be approved by the Watermaster before the beginning of construction work and that the measuring device be installed under the general supervision of said Watermaster.

(3)

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.

(4)

A staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I. Additionally, if the reservoir is located in channel then weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, a gated valve outlet must be installed.

\*Please specify whether the installation of the weir(s) will provide no public benefit.

(5)

Live stream flow must be by-passed between \_\_\_\_\_ and \_\_\_\_\_.

*When Regulation occurs*

(6)

The period of use has been limited to \_\_\_\_\_ through \_\_\_\_\_.

Other (Please specify below)

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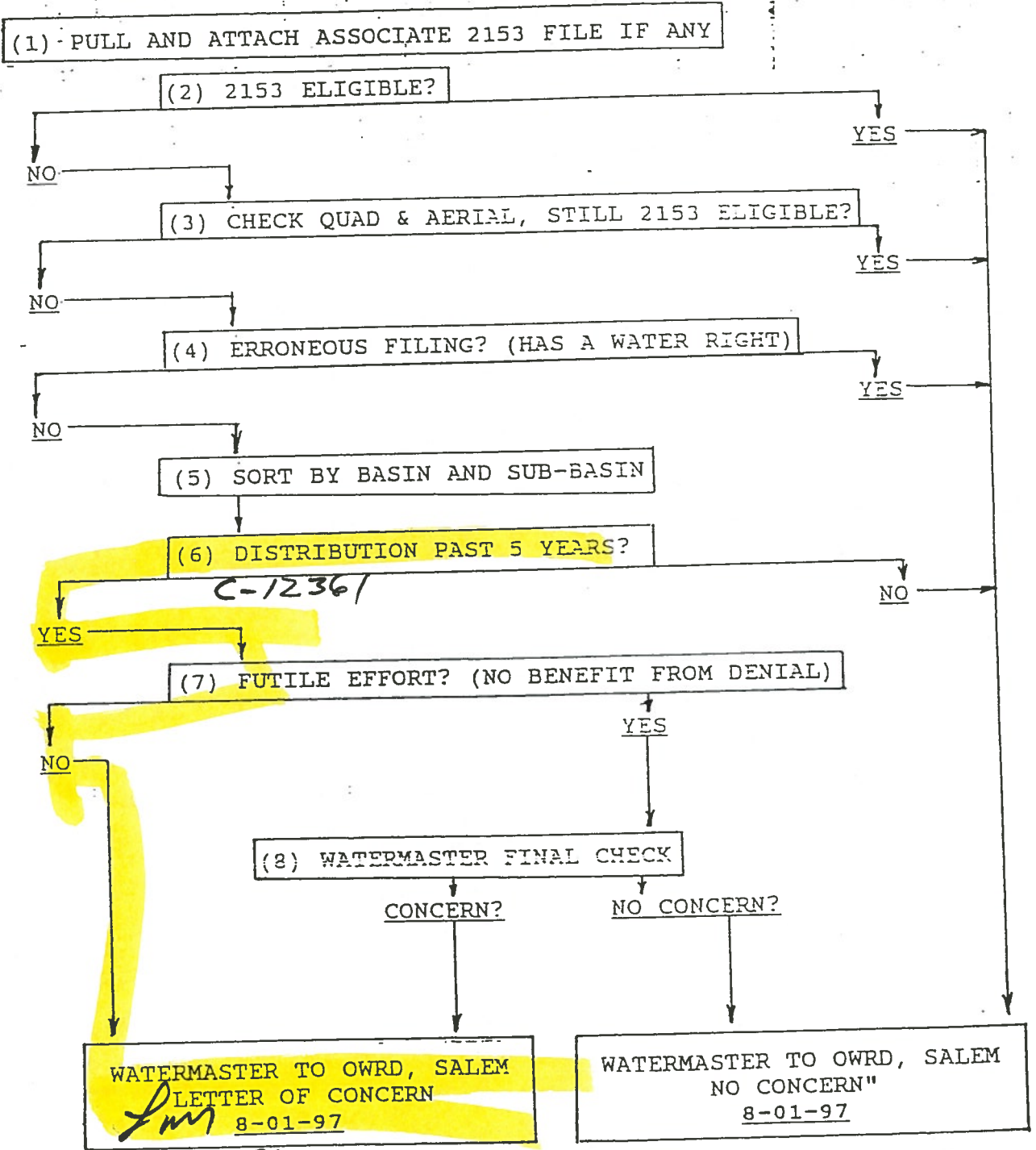
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looks like Dup.  
of P 82593?

INSTRUCTIONS:  
Hi-lite answer to  
each question.  
Initial on line  
that follows

HB2376 PROCESSING GUIDELINES

Ap. No. P82892



7-29-97





# Oregon Water Resources Department Notice of Exempt Reservoir

# RECEIVED

For reservoirs built before January 1, 1995, that:

- Store less than 9.2 acre-feet of water, or
- Have a dam less than 10 feet high.

DEC 30 1996  
WATER RESOURCES DEPT.  
SALEM, OREGON

The deadline for submitting a Notice of Exempt Reservoir is January 31, 1997.

Landowner: Pellett, Gary R.  
Last name First name MI

Authorized Agent: \_\_\_\_\_  
Last name First name MI

Home Address: 2550 Old Military Road  
Central Point OR 97502

Property Address: 184 Hogan Rd. Jacksonville OR (= no mail service). 97530

Phone: 541-772-9153 773-5009  
Home Work

FAX: 541-773 5080 E-Mail Address: \_\_\_\_\_

A. County of use: Jackson . B. River basin (see reverse): 15-Rogue .

### C. Legal description of reservoir location:

Township	Range	Section	Quarter/Quarter	Tax Lot #
39	4W	5	<u>SW NE</u>	200

D. Name, if any, of reservoir: \_\_\_\_\_ . E. Reservoir in existence since: - / - / 1940 .  
MM DD YY

F. Source of water: In winter, filled from Tallawbox Creek. which flows into Thompson Creek - Applegate River.  
Name of river or creek Name of river or creek

G. Maximum height of dam: 9.5 feet.

H. Quantity of water stored in reservoir at maximum capacity (see reverse): 0.1 acre-feet.

I. Water stored in reservoir is used for (see reverse): Programmed for frost control and General agriculture - nursery.

J. Rate and area of use—Refer to chart on the back of this form. For each type of water use listed in Item I, show the quantity of water used and, if applicable, the number of acres on which water is used.

**BEFORE YOU SIGN AND SUBMIT THIS APPLICATION . . . HAVE YOU:**

Answered each question on this form as completely as possible?

Attached a legible map showing township, section, range, quarter-quarter & tax lot number?

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

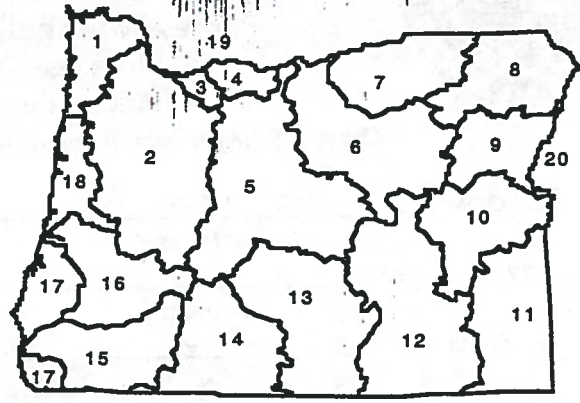
Gary R. Pellett Owner - Gary R. Pellett 23 Dec, 1996  
(Signature of Landowner/Agent) (Printed name and title) (Date)

For Department Use P-82892 10-95  
File # Date received

P 82892

# Oregon's major river basins:

- 1-North Coast
- 2-Willamette
- 3-Sandy
- 4-Hood
- 5-Deschutes
- 6-John Day
- 7-Umatilla
- 8-Grande Ronde
- 9-Powder
- 10-Malheur
- 11-Owyhee
- 12-Malheur L.
- 13-Goose/Summer
- 14-Klamath
- 15-Rogue
- 16.Umpqua
- 17-S. Coast
- 18-Mid Coast
- 19-Columbia
- 20-Snake



One acre-foot is the volume of water that would cover one acre with one foot of water. To find out how much water your pond stores, multiply the surface area by the average depth. This will give you a rough estimate of cubic feet. One acre-foot equals 43,560 cubic feet. You can submit a Notice of Exempt Reservoir if your pond stores less than 400,752 cubic feet  $43,560 \times 9.2$ .

RECEIVED  
MAY 9 1997

## Rate and Area of Use

cfs-cubic feet per second                      gpm-gallons per minute

Agriculture, Land Management			
Gen. Agriculture	cfs/gpm	# acres	
Irrigation	cfs/gpm	# acres	
Stockwater	cfs/gpm	# acres	
Aquatic Life	cfs/gpm	# acres	
Other:	cfs/gpm	# acres	
Cranberry	cfs/gpm	# acres	
Nursery Operatn.	cfs/gpm	# acres	
Temp. Control	cfs/gpm	# acres	
Forest/Range Mgt.	cfs/gpm	# acres	
Other:	cfs/gpm	# acres	

Industrial/Commercial Uses			
Industrial	cfs/gpm	_____	
Fire Protection	cfs/gpm	_____	
Power Dev.	cfs/gpm	_____	
Commercial	cfs/gpm	_____	
Mining	cfs/gpm	_____	
Other:	cfs/gpm	_____	

Drinking Water Supply			
Human Consumption	cfs/gpm	_____	
Domestic	cfs/gpm	_____	
Expanded	cfs/gpm	_____	
Domestic	cfs/gpm	_____	
Other:	cfs/gpm	_____	

Community Water Supply			
Municipal	cfs/gpm	_____	
Group Domestic	cfs/gpm	_____	
Other:	cfs/gpm	_____	
Quasi-Municipal	cfs/gpm	_____	
Storm Water Mgt	cfs/gpm	_____	
Other:	cfs/gpm	_____	

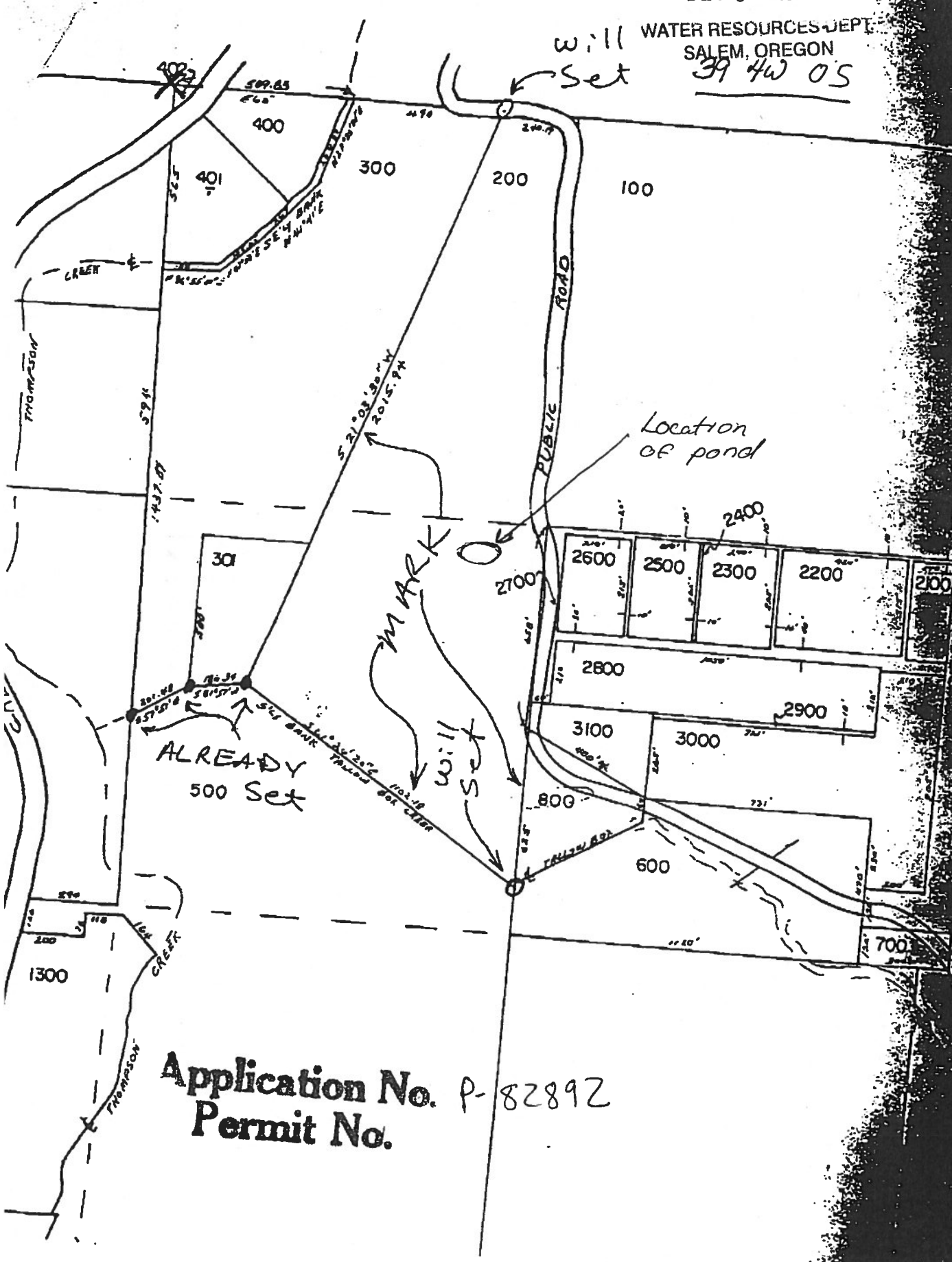
Environmental Benefits			
Pollution Abatement	cfs/gpm	_____	
Wetland Enhancement	cfs/gpm	_____	
Other:	cfs/gpm	_____	
Recreation	cfs/gpm	_____	
Wildlife	cfs/gpm	_____	
Other:	cfs/gpm	_____	

39 4W 32

DEC 30 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

39 4W 05



Application No. P-82892  
Permit No.



Rebuttal  Y /  N

Exempt by WM comments  Y /  N

COMMENTOR:

WM and/or WM Dist: Larry Menteer 124

ODFW Dist: Jerry Vogt

WaterWatch:  Y /  N

---

---

---

# Mailing List for Commenter Letter

File #: P 82892

Letter & copies of rebuttal, comments, certificate or notice, and map sent to:

1. Watermaster: Larry Mentzer 14

2. ODFW District Bio: Jerry Vogt

3. Waterwatch

4. Other: \_\_\_\_\_

(Note: Materials mailed only to those individuals/parties that are checked off above.)

Copy of Letter to:

1. WRD File # P 82892

Copies Mailed
By: <u>[Signature]</u>
(SUPPORT STAFF)
on: <u>12/19/97</u>
(DATE)



# 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

December 19, 1997

Larry Menteer  
Watermaster District 13

Dear Larry:

You submitted comments on ponds filed under ORS 537.407 (HB 2153) or under ORS 537.405 (HB 2376). These laws provided an opportunity for the Oregon Department of Fish and Wildlife to comment on how a specific reservoir(s) will cause significant detrimental impacts to an existing fishery resource and allowed members of the public to comment on how the reservoir(s) will cause an injury to an existing water right(s). Based upon review of your comments, the Department prepared notices of proposed mitigation conditions. A notice was mailed to each of the registrants along with a copy of your comments. The registrants were provided an opportunity to submit additional information to the Department explaining how your comments were in error.

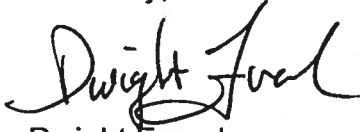
The Department received the attached rebuttals to your comments. If you do not agree with a rebuttal and believe that your comments are still valid, please send a written response to the Department identifying why you disagree with the rebuttal and affirming your position. However, if you agree with the rebuttal you need not respond, unless you determine that it is necessary. In order for us to issue a mitigation order within 180 days of receiving your comments, we need to have your response(s) received by the Department no later than January 7, 1998. If you need an additional day or two to look further at a couple of ponds, please send a request, attention to the appropriate file number.

If you choose to respond, the Department will determine whether a Mitigation Order is required based upon your response and the rebuttal submitted by the registrant. The Mitigation Order, if required, will identify any conditions that must be met in order to protect the fishery resource and/or existing water rights and for the reservoir to be authorized.

If no response to a rebuttal is received, the Department will conclude that you agree with the rebuttal and that a Mitigation Order is not necessary.

If you have any questions, please me at (503) 378-8455, extension 268, or toll free within Oregon at 1 (800) 624-3199.

Sincerely,

A handwritten signature in black ink that reads "Dwight French". The signature is written in a cursive style with a large, stylized "D" and "F".

Dwight French  
Water Rights Manager

Enclosures: Your Comments  
Proposed Mitigation Conditions  
Rebuttal from Registrant  
Copy of Notice of Exempt Pond or Certificate and Map



# 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

December 19, 1997

Jerry Vogt  
Oregon Department of Fish & Wildlife  
1495 East Gregory Rd.  
Central Point, Oregon 97502

Dear Mr. Vogt:

You submitted comments on ponds filed under ORS 537.407 (HB 2153) or under ORS 537.405 (HB 2376). These laws provided an opportunity for the Oregon Department of Fish and Wildlife to comment on how a specific reservoir(s) will cause significant detrimental impacts to an existing fishery resource and allowed members of the public to comment on how the reservoir(s) will cause an injury to an existing water right(s). Based upon review of your comments, the Department prepared notices of proposed mitigation conditions. A notice was mailed to each of the registrants along with a copy of your comments. The registrants were provided an opportunity to submit additional information to the Department explaining how your comments were in error.

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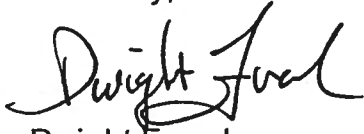
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Dwight French  
Water Rights Manager

Enclosures: Your Comments  
Proposed Mitigation Conditions  
Rebuttal from Registrant  
Copy of Notice of Exempt Pond or Certificate and Map

DEC 11 1997

WATER RESOURCES DEPT.  
SALEM, OREGON

Gary & Chris Pellett  
2550 Old Military Road Central Point, Oregon 97502  
TEL: 541-773-5009 FAX: 541-773-5080

December 9, 1997

Water Resource Department  
Commerce Building  
158 12th Street NE  
Salem, OR 97310-3739

Re: File P 82892, Exempt Reservoir Application.

As the property owner I would like to comment on the response from the Watermaster of Jackson County and the ODFW Biologist comment on our application.

Watermaster Comment - The pond on our property is located in a seasonal drainage which has water flow only at times of very heavy rainfall. The drainage is from east to west and eventually flows into Thompson Creek. On the east side of the pond is an irrigation canal for the local irrigation district. The seasonal water flow enters this irrigation canal and is carried away from the pond and the natural drainage, therefore; the pond does not interfere with other water rights since it does not receive the run-off. In actuality the irrigation canal is carrying the water from the drainage area to the adjacent properties with irrigation rights.

Department of Fish & Wildlife Comments - The pond has no impact on Tallow Box Creek. It is located outside of the Tallow Box Creek drainage. Our request for use of this pond is to fill the pond in the winter months with the source of water being Tallow Box Creek which does run through our property. As pointed out in the comments by ODFW, they do not hold in-stream water rights for Tallowbox Creek and should not make requirements on the taking of water from this stream. Since we have proposed to take water to fill this pond only in the winter months, then the concern about water temperature impact on Thompson Creek is invalid.

I wanted to comment on the history of this pond. We believe that this pond has existed for over 50 years. We purchased the property several years ago and became aware this pond had never been registered and therefore registered it.

The pond has served several functions for many years. It is a important habitat for wildlife in the area. Wood ducks nest at the pond every spring. It is also important to amphibians as a reproduction site. Many mammals in the area come to this pond

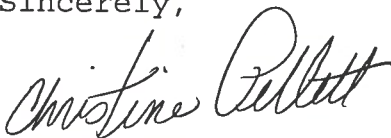
DEC 11 1997

WATER RESOURCES DEP  
SALEM, OREGON

for water. Muskrats and beavers have made temporary use of the site. It also has provided protection to our neighbors home (to the west of our land) by slowing the water in the drainage and preventing possible flooding of their home.

Our plans for the pond are simple. We will use it in early Spring for frost control and also maintain its existing use for wildlife habitat.

Sincerely,

A handwritten signature in cursive script that reads "Christine Pellett". The signature is written in dark ink and is positioned below the word "Sincerely,".

Christine Pellett



# Oregon

John A. Kitzhaber, M.D., Governor

November 12, 1997

## Water Resources Department

Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

FILE#: P 82892

GARY R PELLETT  
2550 OLD MILITARY RD  
CENTRAL POINT, OR 97502

Dear Reservoir Owner,

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If you have any questions, please call the Water Rights Information Group at (503) 378-3739 extension. 499.

Water Right Section

## MITIGATION CONDITIONS

File # P- 82892  
Date 11-12-97  
ML

### Oregon Department of Fish and Wildlife Conditions

- In accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate bypass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream passage for fish. (SMBS)
- Install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion. (SMSS)
- The reservoir owner is required to by-pass flows from April 1 through October 31. (BPC)

### Water Right Related Conditions

- The pond may be filled one time only per year. No diversion of water to storage can occur during times all water rights are not met on the John Day river System. (KR1)
- If required by the Watermaster, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Watermaster (Department). (KR2)
- Live stream flow must be passed when required to satisfy existing water rights. In order to substantiate live flow is being passed, measuring devices may be required. (J)
- Live flow must be by-passed all year. (BSD)
- Any secondary use of stored water is limited each year to the capacity of the reservoir. (BSD2)
- The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

**ODFW BIOLOGIST COMMENTS FOR  
HB 2153 CERTIFICATES  
HB 2376 NOTICES**

Application # P-82892                      Date: July 30, 1997  
Biologist's Name: Jerry Vogt  
Address: 1495 East Gregory Rd., Central Point  
Certificate #    *(If applicable)*      Phone: (541) 826-8774

**\*\* Attach additional sheets if necessary**

Please specify which reservoir(s)/ponds(s) the comments pertain to:  
*Describe by name, number or Township Range Section and 1/4 1/4 if necessary. If comments refer to all reservoir listed please specify. Please provide enough information to accurately describe which reservoir the comment(s) pertain to.*

Unnamed reservoir, T39S, R4W, Sec. 5

Does the reservoir/pond cause a detrimental impact to existing fishery resource. Specify which fishery resource and the evidence which supports that finding. *Please describe for each reservoir listed above. If the water right and the supporting evidence are the same please indicate.*

---

This reservoir negatively impacts populations of steelhead in Tallowbox Creek by inhibiting the upstream and downstream movement of adult and juvenile fish. Tallowbox Creek is a tributary of Thompson Creek, a stream which appears on DEQ's 303 (d) list of water quality limited streams due to high summer water temperatures. These high water temperatures reduce salmonid habitat in Thompson Creek, and withdrawals of water for this reservoir contribute to the temperature problems on this stream. In addition, these withdrawals injure ODFW's instream water right on Thompson Creek (Certificate 59825).

**\*\*\*\*\*BACK OF PAGE FOR LIST OF CONDITIONS TO MITIGATE INJURY\*\*\*\*\***

Which of the following conditions are required to mitigate the described injury?

The reservoir owner shall: (without ODFW approval)

- (a) install, maintain, and operate fish screening devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. \*The required screen is to be in place and functional prior to any further diversion of water.
- (b) in accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate by-pass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream and downstream passage for fish.
- (a & b) install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. \*The required screen is to be in place and functional prior to any further diversion of water.

The reservoir owner shall: (with ODFW approval)

- (a) install, maintain, and operate fish screening device as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. \*The required screen is to be in place, functional and approved by an ODFW representative prior to any further diversion of water.
- (b) in accordance with ORS 498.268 and ORS 509.605, install, maintain, and operate by-pass devices as required by the Oregon Department of Fish and Wildlife that will provide adequate upstream and downstream passage for fish. \*The required by-pass device is to be in place, functional and approved by an ODFW representative prior to any further diversion of water.
- (a & b) install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. \*The required screens and by-pass devices are to be in place, functional and approved by an ODFW representative prior to any further diversion of water.

The reservoir owner shall by-pass flows during months when Instream Water Rights are not being met.

Other: (Please specify below)

ODFW does not hold an instream water right for Tallowbox Creek. However, to prevent further degradation of stream temperature problems in Thompson Creek, and to avoid injury to ODFW's instream water right on that stream, the reservoir owner should be required to by-pass flows from April 1 through October 31.

---



# 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

November 20, 1997

GARY R PELLETT  
2550 OLD MILITARY RD  
CENTRAL POINT, OR 97502

REFERENCE: FILE#: P 82892

Dear Mr. Pellett,

I want to apologize for any confusion which may have resulted from the letter we sent to you about a week ago. I hope this follow-up letter will better explain our "ponds" program, and give you a clearer picture of what is happening with your pond.

In 1995, the legislature adopted a new law intended to help address a legal problem with many existing ponds throughout the state. These ponds had been developed over the years by land owners who were not aware that water rights may have been required. In order to make sure that all the ponds were "legal" the legislature approved HB 2376 in 1995, which set out a process for filing a notice of the pond with our department. Under the law, such notices could be filed until January 31, 1997. Our job was then to determine whether any of the ponds resulted in injury to other existing water rights, or created a detrimental impact on fish.

This simplified review process was intended to make it easier for the owners of existing ponds to receive final water right certificates. The 1995 law also required that we provide a comment period, which ended on August 1, 1997. During this time, we were required to accept comments as to whether a pond may in fact be resulting in injury to other water rights or creating a detrimental impact to fish. After the close of that comment period, our department was given 180 days in which to evaluate the comments, give notice to the pond owners, and identify whether mitigation measures would be required to alleviate the injury to other water rights or impacts to fish.

This is why you received a letter from us last week. For more than 16,000 ponds on which notices were filed under HB 2376, about 960 comments were received. From those comments, we determined that about half would appear to require mitigation measures. A total of 450 letters were sent out last week to pond owners like you.



The purpose of these letters was to advise you that the comments had been received, and to provide you with an opportunity to get back to us with any information you might have to show that the mitigation should not be required — either because you disagree with the comment that we received, or because you have a better idea of how to remedy the situation.

The letter you received included a copy of the comments we received about your pond, along with our proposed mitigation plan. We need to hear from you by December 10, 1997, as to whether you disagree with the underlying comment or with our proposed mitigation. We do encourage you to get back to us by the deadline, and we will make every effort to accommodate your suggestions.

Again, I offer my sincere apology for any confusion or irritation caused by our earlier letter. I hope this letter provides additional background information that will help you respond to the questions about your pond. If you have questions about this process, please let us know. I urge you to call our Water Rights Information staff at 1-800-624-3199 extension 499. In some circumstances they may also involve your local Watermaster for additional help. We will try our best to work through this with you.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Martha O. Pagel', with a long, sweeping underline.

Martha O. Pagel  
Director

m:955



# Oregon Water Resources Department Notice of Exempt Reservoir

RECEIVED

DEC 30 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

For reservoirs built before January 1, 1995, that:

- Store less than 9.2 acre-feet of water, or
- Have a dam less than 10 feet high.

The deadline for submitting a Notice of Exempt Reservoir is January 31, 1997.

Landowner: Pellett, Gary R.  
 Last name First name MI

Authorized Agent: \_\_\_\_\_  
 Last name First name MI

Home Address: 2530 Old Military Road  
Central Point OR 97502.

Property Address: 184 Hogan Rd. Jacksonville OR (= no mail service). 97530

Phone: 541-772-9153 773-5009  
 Home Work

FAX: 541-773 5080 E-Mail Address: \_\_\_\_\_

A. County of use: Jackson . B. River basin (see reverse): 15-Rogue .

C. Legal description of reservoir location:

Township	Range	Section	Quarter/Quarter	Tax Lot #
39	4W	5	<b>SW NE</b>	200

D. Name, if any, of reservoir: \_\_\_\_\_ . E. Reservoir in existence since: - / - / 1940.

F. Source of water: In winter, filled from Tallowbox Creek. which flows into Thompson Creek → Applegate River.  
 Name of river or creek Name of river or creek

G. Maximum height of dam: 9.5 feet.

H. Quantity of water stored in reservoir at maximum capacity (see reverse): 0.1 acre-feet.

I. Water stored in reservoir is used for (see reverse): Programmed for frost control and general agriculture - nursery.

J. Rate and area of use—Refer to chart on the back of this form. For each type of water use listed in Item I., show the quantity of water used and, if applicable, the number of acres on which water is used.

**BEFORE YOU SIGN AND SUBMIT THIS APPLICATION . . . HAVE YOU:**

Answered each question on this form as completely as possible?

Attached a legible map showing township, section, range, quarter-quarter & tax lot number?

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

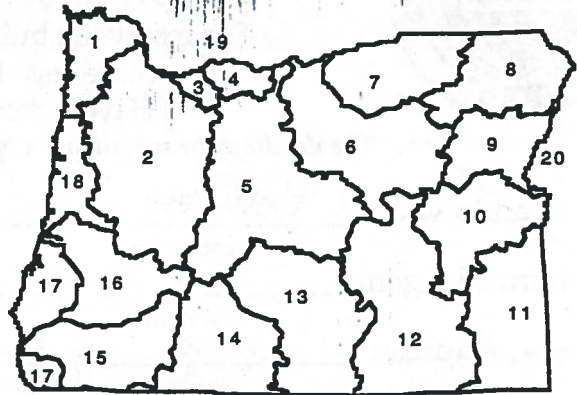
Gary R. Pellett. Owner - Gary R. Pellett. 23 Dec 1996  
 (Signature of Landowner/Agent) (Printed name and title) (Date)

For Department Use P-82892 10-95  
 File # Date received

This Notice of Exempt Reservoir should be mailed directly to: Water Resources Department, Commerce Building, 158 12th Street NE, Salem, OR 97310-0210.

# Oregon's major river basins:

- 1-North Coast
- 2-Willamette
- 3-Sandy
- 4-Hood
- 5-Deschutes
- 6-John Day
- 7-Umatilla
- 8-Grande Ronde
- 9-Powder
- 10-Malheur
- 11-Owyhee
- 12-Malheur L.
- 13-Goose/Summer
- 14-Klamath
- ✓ 15-Rogue
- 16.Umpqua
- 17-S. Coast
- 18-Mid Coast
- 19-Columbia
- 20-Snake



One acre-foot is the volume of water that would cover one acre with one foot of water. To find out how much water your pond stores, multiply the surface area by the average depth. This will give you a rough estimate of cubic feet. One acre-foot equals 43,560 cubic feet. You can submit a Notice of Exempt Reservoir if your pond stores less than 400,752 cubic feet  $43,560 \times 9.2$ .

<b>Rate and Area of Use</b>			
cfs-cubic feet per second		gpm-gallons per minute	
<b>Agriculture, Land Management</b>			
Gen. Agriculture	cfs/gpm	# acres	_____
Irrigation	cfs/gpm	# acres	_____
Stockwater	cfs/gpm	# acres	_____
Aquatic Life	cfs/gpm	# acres	_____
Other:	cfs/gpm	# acres	_____
Cranberry	cfs/gpm	# acres	_____
Nursery Operatn.	cfs/gpm	# acres	_____
Temp. Control	cfs/gpm	# acres	_____
Forest/Range Mgt.	cfs/gpm	# acres	_____
Other:	cfs/gpm	# acres	_____
<b>Industrial/Commercial Uses</b>			
Industrial	cfs/gpm	_____	_____
Fire Protection	cfs/gpm	_____	_____
Power Dev.	cfs/gpm	_____	_____
Commercial	cfs/gpm	_____	_____
Mining	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____
<b>Drinking Water Supply</b>			
Human Consumption	cfs/gpm	_____	_____
Domestic	cfs/gpm	_____	_____
Expanded	cfs/gpm	_____	_____
Domestic	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____
<b>Community Water Supply</b>			
Municipal	cfs/gpm	_____	_____
Group Domestic	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____
Quasi-Municipal	cfs/gpm	_____	_____
Storm Water Mgt	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____
<b>Environmental Benefits</b>			
Pollution Abatement	cfs/gpm	_____	_____
Wetland Enhancement	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____
Recreation	cfs/gpm	_____	_____
Wildlife	cfs/gpm	_____	_____
Other:	cfs/gpm	_____	_____



36 4W 32

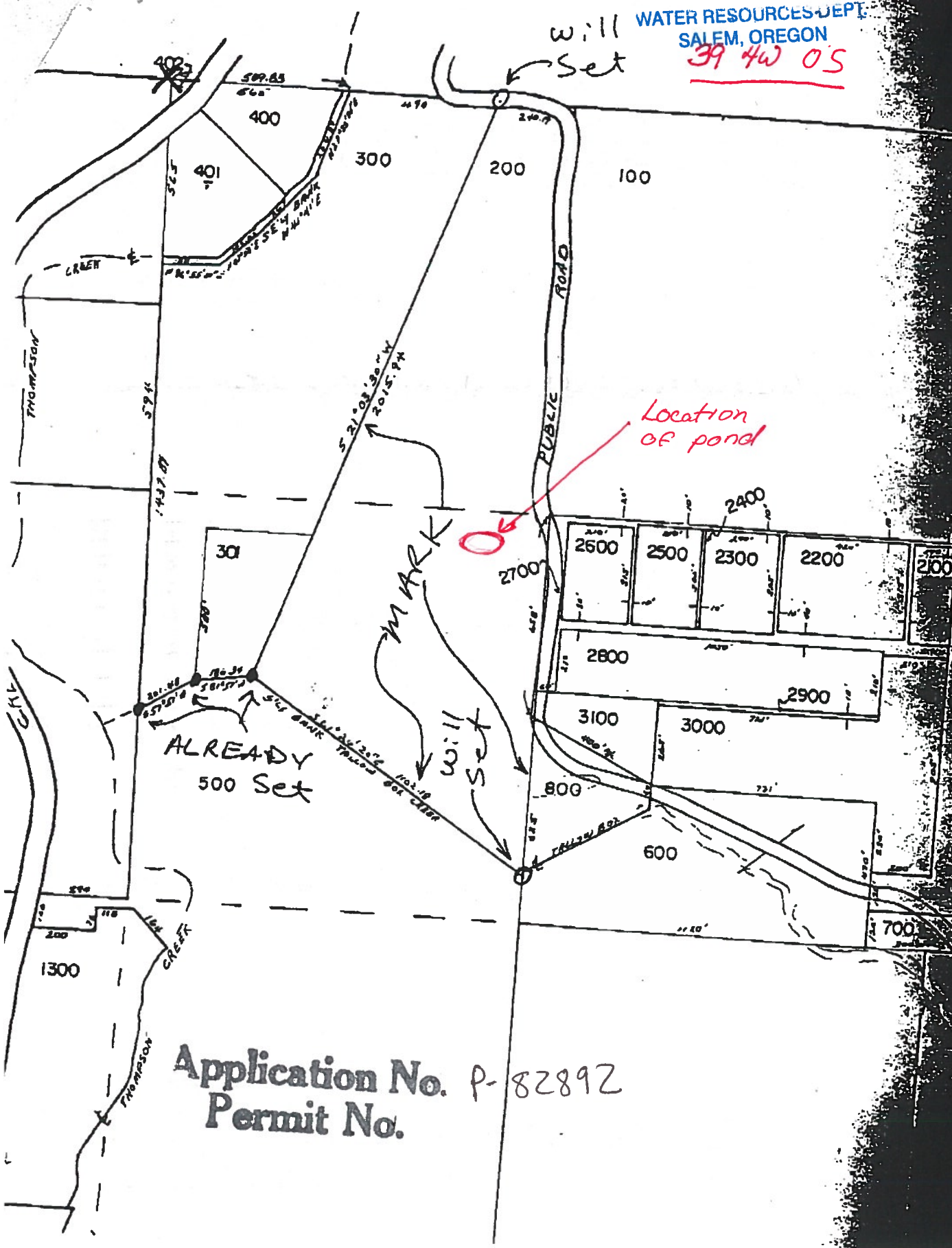
FARBER SURVEYING

003/003

DEC 3 0 1996

WATER RESOURCES DEPT.  
SALEM, OREGON

39 4W 05



Application No. P-82892  
Permit No.