



APR 12 2021

**OWRD** Application for a Permit to  
**Store Water  
in a Reservoir  
(Alternate Review)**

**Use a separate form for each reservoir**

*Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply, insert "n/a". A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).*

Applicant: VanDyke Riverview Farms  
First Last

Mailing Address: 8456 NW McSween Ln.

Yamhill Oregon 97148  
City State Zip

Phone: \_\_\_\_\_  
Home Work Other  
503 550 6417

Fax: \_\_\_\_\_ E-Mail Address\*: markvandyke6@gmail.com

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

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

Agent: VanDyke Farms

First Last

Mailing Address: 15221 NW Westside Rd.

Yamhill Oregon 97148

City State Zip

Phone: \_\_\_\_\_

Home Work Other

Fax: \_\_\_\_\_ E-Mail Address\*: vandykeben@yahoo.com

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

**A. Reservoir Name:** Riverview Pond

Source: Runoff & Yamhill Creek      Tributary to: North Yamhill River

C. County in which diversion occurs: Yamhill

App. No. \_\_\_\_\_ For Department Use  
Permit No. \_\_\_\_\_ Date \_\_\_\_\_

#### D. Reservoir Location

Township (N or S)	Range (E or W)	Section	quarter/quarter	tax lot number
3 South	4 West	4	NWSE & SWSE	1900

E. **Dam:** Maximum height of dam: 9'8" feet. If excavated, write "zero feet".

F. **Quantity:** Amount of water to be stored in the reservoir at maximum capacity. List volume in acre-feet: 9.1      Acre-feet =  $\frac{(\text{Average Length})(\text{Average Width})(\text{Average Depth})}{43,560}$

#### 4. WATER USE

Indicate the proposed use(s) of the stored water. **NOTE: You may wish to consider filing for "Multipurpose use" for your reservoir. Multipurpose use does not limit the types of future uses for the stored water. Multipurpose covers all uses including: stockwater, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection and pollution abatement.** If any use will be out of reservoir use, regardless of the type of storage listed, a secondary application must be filed to appropriate the stored water.

Multipurpose Use

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#### 5. PROPERTY OWNERSHIP

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

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

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

☐ There are no encumbrances

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

☒ **No** (Please check the appropriate box below)

☒ I have a recorded easement or written authorization permitting access.

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

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

List the names and mailing addresses of all affected landowners:

James VanDyke. PO Box 400 Yamhill, OR 97148

John VanDyke. 1255 E. Main St. Yamhill, OR 97148

## 6. ENVIRONMENTAL IMPACT

- A. **Channel:** Is the reservoir: ☐ in-stream or ☒ off channel?
- B. **Wetland:** Is the project in a wetland? ☐ Yes ☒ No ☐ Don't know
- C. **Existing:** Is this an existing reservoir? ☐ Yes ☒ No  
If yes, how long has it been in place? \_\_\_\_\_ years.
- D. **Fish Habitat:** Is there fish habitat upstream of the proposed structure? ☐ Yes ☒ No ☐ Don't know  
If yes, how much? \_\_\_\_\_ miles.
- E. **Partnerships:** Have you been working with other agencies? ☐ Yes ☒ No  
Indicate agency, staff and phone numbers of those involved. Also indicate any agencies that are cost sharing in this project.

## 7. WITHIN A DISTRICT

☐ Check here if the point of diversion or place of use are located within or served by an irrigation or other water district.

Irrigation District Name NA	Address	
City	State	Zip

## 8. DESCRIPTION

Provide a description of the design and operation of the proposed diversion, including a description of how live flow will be passed outside the authorized storage season. Use this space for narrative. You may also provide narrative and sketches on separate pages.

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If the diversion involves a dam, use this space for sketches of the diversion (e.g. cross-section of the dam with its dimensions, dimension and placement of outlet pipe, means of passing live flow outside of the authorized storage season, and means for providing fish passage).

#### 9. SIGNATURE

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

B-v

Applicant Signature

1-13-20

Date

**Before you submit your application be sure you have:**

- Answered each question completely.
- Included a legible map that includes Township, Range, Section, quarter-quarter and tax lot number.
- The map must meet map requirements to be accepted.
- Included a land use form or receipt stub signed by a local planning official.
- Included a check payable to Oregon Water Resources Department for the appropriate amount.

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# Watermaster Alternate Reservoir Application Review Sheet

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

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

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

<b>Applicant's Name VanDyke Riverview Farms 3S4WSec4 TL 1900</b>		
1. Does the proposed reservoir have the potential to injure existing water rights? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Explain:		
2. Can conditions be applied to mitigate the potential injury to existing water rights? <input type="checkbox"/> YES <input type="checkbox"/> NO Explain: NA		
3. Is water available for the proposed reservoir? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
4. If yes, during what period? Beginning: October End: July  Attach a WARS printout at 50% exceedance. If WARS does not cover the proposed location, make a recommendation for a storage season based upon regulation history and your knowledge of the location. (Water Availability for Reservoir Policy found under OAR 690-410-0070(2)(c))		
5. Did you meet with staff from another agency to discuss this application? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Who:	Agency:	Date:
Who:	Agency:	Date:

Watermaster Name: **Joel Plahn**

Watermaster Signature: Joel Plahn Date: **4/19/2021**

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

# Land Use Information Form

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

Applicant: Van Dyke Farms First Last

Mailing Address: 15221 NW Westside Rd

Yamhill City OR State 97148 Zip Daytime Phone: 503 799-3873

## A. Land and Location

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
3 S	4 W	4	NWSE & SWSE	1900	EF-80/AFLH	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	
3S	4W	3		3300	↓	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	
3S	4W	3		1701		<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	
3S	4W	3		1700		<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	

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

Yamhill

## B. Description of Proposed Use

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

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

Source of water: ☐ Reservoir/Pond    ☐ Ground Water    ☒ Surface Water (name) Yamhill Creek

Estimated quantity of water needed: 9.1 ☐ cubic feet per second    ☐ gallons per minute    ☒ acre-feet

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

Briefly describe:

Irrigation and other Agricultural uses.

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

See bottom of Page 3. →



## For Local Government Use Only

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

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

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

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
Floodplain Development	901	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input checked="" type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

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

Name: Kenneth P. Friday Title: Planning Director  
 Signature: [Signature] Phone: 503 437-9516 Date: 8/6/2020  
 Government Entity: Yamhill County

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

**Receipt for Request for Land Use Information**

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

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Yamhill County Planning Department

525 NE 4th Street  
McMinnville, OR 97128

503-434-7516

Fax: 555-434-7544

planning@co.yamhill.or.us

## Transaction Receipt

Record ID: August 2020 Misc. Planning Pay

IVR Number: 979047406462

Receipt Number: 906879

Receipt Date: 8/20/20

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www.co.yamhill.or.us/planning

### Fees Paid

Transaction date	Units	Description	Account code	Fee amount	Paid amount
8/20/20	1.00 Ea	Agency Sign-off (LUCS, DMV renewal: building permit)	010-020-341.16-PL66	\$82.00	\$82.00

Payment Method:	Credit card authorization: 092444	Payer: BEN VANDYKE	Payment Amount:	\$82.00
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Cashier: Pat Lisle

Receipt Total: \$82.00



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EXHIBIT "A"

PARCEL I:

Commencing at the Southwest corner of a tract of land set apart to Martha J. Cooper as described on page 373 of Volume No. 3 of the Journal of the Circuit Court of the State of Oregon for Yamhill County, and running thence North with the Southern Pacific Railroad tract with all its angles to the North boundary line of the Donation Land Claim of Chandler Cooper in said County; thence West with the said North Boundary line of said claim, to the Northwest corner thereof; thence South with boundary of claim 40 chains to Southwest corner of said claim; thence East with South line of said claim 21.25 chains to the place of beginning.

Also the following tract of land, to-wit: Situated in said County and State and being part of the Donation Land Claim of Chandler Cooper and wife in Township 3 South, Range 4 West of the Willamette Meridian, in said Yamhill County, Oregon, and said part being bounded as follows, to-wit: Beginning at a point on the South boundary line of said claim which point is 43.04 chains West of Southeast corner of said claim, and being corner of George F. Cooper tract; thence West 17 chains to center of railroad tract above named; thence North 10 deg. 20 min. East 14 chains along the center of said railroad tract; thence North 8 deg. 45 min. East 3.50 chains along center of said railroad track; thence North 6 deg. 30 min. East 2.78 chains to corner of lands deeded to George F. Cooper by P. H. Mesner and wife; thence East along Cooper's South line 13.53 chains to a stone 8 x 10 x 15 inches; thence South 19.74 chains to a stone 10 x 16 inches, and place of beginning.

Also, commencing at a point 9 feet North of the Southwest corner of the Donation Land Claim of Chandler Cooper above named, in said Yamhill County, Oregon; thence North on the West boundary line of said claim; 30 feet to the line between lands of A.L. Fryer and A. Laughlin; thence West about 69 rods on line between lands of Laughlin and Fryer, to center of County Road leading from North Yamhill to Lafayette, Oregon; thence Southeasterly along said road about 30 feet to a point due West of line parallel to the plank fence of A.L. Fryer, now there, and immediately North of said fence; thence East about 69 rods along the North side of said fence to the place of beginning.

Also, beginning at a point 43.22 1/2 chains West of the Northeast corner of the Chandler Cooper Donation Land Claim, Claim No. 45, Notification No. 1583, in Township 3 South, Range 4 West of the Willamette Meridian in Yamhill County, State of Oregon and being part of said Donation Land Claim; thence South 20.20 chains to stone; thence West 13.55 chains to center of the S.P.R.R. right of way, thence North 4 deg. 45 min. East 3.30 chains; thence North 2 deg. 20 min. East 16.65 chains to the North line of said Donation Land Claim; thence East and on said line 12.62 chains to the place of beginning.

The last above described parcel is subject to a roadway of 20 feet in width along and over the South end of said premises.

Also, being a part of the Donation Land Claim of John B. Rowland, Notification No. 1560, Claim No. 44 in Township 3 South of Range 4 West of the Willamette Meridian, in Yamhill County, Oregon, and more particularly described as follows: Policy No.: 162730/55227

Exhibit "A", Page Two

Beginning at a stake set in the center of Third Street in the City of Yamhill in said County and State at a point South 30 min. East 5.095 chains from the Northeast corner of said John B. Rowland Donation Land Claim and at a point North 89 deg. 55 min. East 1.915 chains from the intersection of Third Street and Cedar Street in said City of Yamhill; running thence South 30 min. East along the East line of said J. B. Rowland Donation Land Claim 42.635 chains to a stake at the Southeast corner at a point 4 links West of the Intersection of the present fences; thence South 89 deg. 32 min. West along fence now there 22.61 chains to the center of the County road from which an oak 18 inches in diameter bears East 46 links; thence North 24 deg. 09 min. West along the center of said County Road 85/100 of a chain to an angle in said County Road; thence North 16 deg. 03 min. West along the center line of the said County Road 29.53 chains to a point; thence North 73 deg. 57 min. East at right angles to said County Road 2.77 chains to a stake in the center of the ditch from which an oak 20 inches in diameter bears North 69 deg. West 70 1/2 links; thence following the center of branch creek North 13 deg. 57 min. West 4.14 chains to an angle; thence North 26 deg. 15 min. West 1.735 chains to an angle; thence North 20 deg. 48 min. East 1.385 chains to an angle; thence North 41 deg. 16 min. West 1.858 chains to an angle; thence South 63 deg. 03 min. West 2.70 chains to the center of the County Road; thence North 16 deg. 03 min. West along the center of said County Road 6.05 chains to an iron bolt in the center line of Third Street in said City of Yamhill at a point North 89 deg. 55 min. East 1.91 chains from the intersection of Third Street and Maple Street in said City of Yamhill; thence North 89 deg. 55 min. East along the center line of Third Street in said City of Yamhill 8.125 chains to an iron pipe set at the Northwest corner of the City Park, County Survey No. 2552; thence South 05 deg. East 6.667 chains to an iron pipe set at the Southwest corner of the City Park; thence North 89 deg. 55 min. East 7.498 chains to an iron pipe; thence North 05 deg. West 6.667 chains to an iron pipe in the center line of Third Street at the Northeast corner of City Park; thence North 89 deg. 55 min. East along the center line of Third Street in said City of Yamhill 19.077 chains to the place of beginning.

Also, being a portion of the Donation Land Claim of John B. Rowland and Percila Rowland, his wife, Notification No. 1560, Claim No. 44 in Township 3 South of Range 4 West of the Willamette Meridian, in Yamhill County, Oregon and more particularly described as follows:

Beginning at a point 147 feet East and 435 feet South 15 1/2 deg. East from the Southeast corner of a certain piece or parcel of land deeded to Jeremiah Lenox by F. Hauswirth and wife, and Lee Laughlin and wife on September 8, 1870 and recorded at page 408 of Book "K" Deed Records for Yamhill County, Oregon on September 17, 1870; thence South 15 1/2 deg. East 210 feet; thence East 170 feet to the center of creek; thence running down the center of creek to the place of beginning.

EXCEPTING that portion of the above described property which lies within the boundaries of the right of way of the Southern Pacific Railroad.



# WATERMASTER ALTERNATE RESERVOIR APPLICATION REVIEW SHEET

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

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

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

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

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

Application #: R-      Applicant's Name: Van Dyke 3S4WSec4TL1900 NWSE and SWSE

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1) Does the proposed reservoir have the potential to injure existing water rights?      ☐ NO      ☐ YES

Explain:

2) Can conditions be applied to mitigate the potential injury to existing water rights?      ☐ NO      ☐ YES

If YES, which conditions are recommended:

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

Who:      Agency:      Date:

Who:      Agency:      Date:

Watermaster printed name: Joel Plahn

Watermaster signature:      Date:

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

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



# ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant.

Applicant Name/Address/Phone/Email: Vandyke Farms, 15221 NW Westside Rd  
Yamhill, OR 97148 / 503 799-3873 / vandykeben@yahoo.com

Reservoir Name: Riverview Pond Source: Runoff and Yamhill Creek Volume (AF): \_\_\_\_\_

Twp Rng Sec QQ: 3S 4W Sec 4 NWSE SWSE Basin Name: Willamette ☐ in-channel  
☐ off-channel

Note: It is unlikely that ODFW will be able to complete this form while you wait, nevertheless we recommend making an appointment to submit the form so as to provide any necessary clarifications. See pg. 6 of Instructions for contact information.

This portion to be completed by Oregon Department of Fish and Wildlife (ODFW) District staff.

1) Is the proposed project and AO<sup>1</sup> off channel? ..... ☐ YES ☐ NO  
(if yes then proceed to #4; if no then proceed to #2)

2) Is the proposed project or AO located where NMF<sup>2</sup> are or were historically present? ..... ☐ YES ☐ NO  
(if yes then proceed to #3; if no then proceed to #4)

3) If NMF are or were historically present:

- a. Is there an ODFW-approved fish-passage plan? ..... ☐ YES ☐ NO  
b. Is there an ODFW-approved fish-passage waiver or exemption? ..... ☐ YES ☐ NO

If fish passage is required under ORS 509.580 through .910, then either 3(a) or 3(b) must be "Yes" to move forward with the application. If responses to 3(a) and 3(b) are "No", then the proposed reservoir does not meet the requirements of Oregon Fish Passage Law and shall not be constructed as proposed.

4) Would the proposed project pose any other significant detrimental impact to an existing fishery resource locally or downstream? ..... ☐ YES ☐ NO  
*Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)*

- ☐ Any diversion or appropriation of water for storage during the period \_\_\_\_\_ through \_\_\_\_\_ poses a significant detrimental impact to existing fishery resources.  
(For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.)  
If NMF fish are present at the project site or point of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.
- ☐ This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

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<sup>1</sup> AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)

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



# ODFW Alternate Reservoir Application Review Sheet

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This portion to be completed by the applicant.

**Applicant Name/Address/Phone/Email:** VanDyke Farms/15221 NW Westside Road, Yamhill, OR 97148/503-799-3873/vandykeben@yahoo.com

**Reservoir Name:** Riverview Pond

**Source:** Runoff & Yamhill Creek

**Volume (AF):** 9.1

**Twp Rng Sec QQ:** T3S R4W S4 NWSE & SWSE

**Basin Name:** Yamhill Creek

☐ in-channel  
☒ off-channel

Note: It is unlikely that ODFW will be able to complete this form while you wait, nevertheless we recommend making an appointment to submit the form so as to provide any necessary clarifications. See pg. 6 of Instructions for contact information.

This portion to be completed by Oregon Department of Fish and Wildlife (ODFW) District staff.

1) Is the proposed project and AO<sup>1</sup> off channel? ..... ☒ YES ☐ NO\*  
(if yes then proceed to #4; if no then proceed to #2)

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

2) Is the proposed project or AO located where NMF<sup>2</sup> are or were historically present?..... ☐ YES ☐ NO  
(if yes then proceed to #3; if no then proceed to #4)

3) If NMF are or were historically present:

- a. Is there an ODFW-approved fish-passage plan?..... ☐ YES ☐ NO  
b. Is there an ODFW-approved fish-passage waiver or exemption?..... ☐ YES ☐ NO

If fish passage is required under ORS 509.580 through .910, then either 3(a) or 3(b) must be "Yes" to move forward with the application. If responses to 3(a) and 3(b) are "No", then the proposed reservoir does not meet the requirements of Oregon Fish Passage Law and shall not be constructed as proposed.

4) Would the proposed project pose any other significant detrimental impact to an existing fishery resource locally or downstream?..... ☒ YES ☐ NO

*Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)*

☒ Any diversion or appropriation of water for storage during the period June-November poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.) If NMF fish are present at the project site or point of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.

☐ This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

ESA-listed fish (spring Chinook Salmon, winter steelhead) and state sensitive species (Coastal Cutthroat Trout, Pacific Lamprey) are present in the North Yamhill River during the period of impact. Instream flows to fulfill C72586 for aquatic life are not being met partially or wholly during the period of impact. Based on parameters assessed by ODFW, instream flows are currently below those essential to support the biological needs of an existing fishery resource during June-November.

<sup>1</sup> AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)



The proposed use will diminish physical habitat and alter the flow regime to which fish are naturally adapted, negatively affecting their distribution, productivity, and abundance. Therefore, a further reduction in flow or alteration of habitat from the proposed use would impair or be detrimental to an existing fishery resource and/or their habitat without appropriate conditions and/or mitigation.

If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?

☐ NO (explain)      ☒ YES (select from Menu of Conditions on next page)

Without appropriate conditions and/or mitigation, a further reduction in flow or alteration of habitat from the proposed water use will impair or be detrimental to an existing fishery resource. Water is only available to support biologically necessary flows at the POD and/or downstream during December-May. ODFW recommends the season of use be restricted to coincide with this period or the proposed use be mitigated prior to issuance of a Proposed Final Order for any use outside of this period. If the applicant proposes to store water outside of the recommended season ODFW requests that the applicant submit, to the application caseworker at WRD, a Mitigation Proposal that fulfills the Mitigation Obligation consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations), as outlined below, to compensate for any potential impact from the proposed use.

ODFW recommends the Proposal include an assessment of options using the following actions listed in order of priority:

- (1) avoiding the impact altogether,
- (2) minimizing the impact by limiting the degree or magnitude of the action,
- (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment,
- (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the development action and by monitoring and taking appropriate corrective measures, and
- (5) compensating for the impact by replacing or providing comparable substitute resources or environments.

ODFW recommends the applicant contact the WRD caseworker to schedule a consultation with ODFW concerning the recommended Mitigation Obligation if questions arise.

#### **Recommended Mitigation Obligation**

If the applicant chooses to pursue water use during **June-November** when biologically necessary flows are not met, ODFW recommends the applicant provide water-for-water mitigation that is available within the mitigation reach and **legally protected and maintained as an instream water right** for the life of the permit and subsequent certificate, as outlined below.

A) Water Quantity: 9.1 AF (cfs or AF; equals amount requested)

☒ **plus a net benefit** (for Habitat Category 2)

B) Months (when biological flows are not met during the proposed season of use): **June-November**

C) Location of Mitigation (based on the Habitat Category):

- ☐ within the watershed **at or above** the point of impact
- ☒ at or above the point of impact is preferred, but may occur within the watershed of the impacted population(s)
- ☐ within the watershed of the impacted population(s)
- ☐ benefitting the impacted population(s) and/or higher priority species: list species here

D) Additional comments: type here

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



## Menu of Conditions

**agricultural water quality management area rules:** The permittee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The permittee shall protect riparian areas, including through irrigation practices and the management of any livestock, allowing site capable vegetation to establish and grow along streams, while providing the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff.

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

**b51a:** The period of use has been limited to \_\_\_\_\_ through \_\_\_\_\_.

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

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

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

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

**construction activities:** For construction activities (clearing, grading, excavation, staging, and stockpiling) that will disturb one or more acres and may discharge to state waters, the permittee is required to obtain from DEQ a 1200-C NPDES Stormwater Construction Permit prior to project construction.

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

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

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

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

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

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

**fishpass:** As required by ORS 509.585, a person owning or operating an artificial obstruction (AO) may not construct or maintain any AO across any waters of this state that are inhabited, or historically inhabited, by native migratory fish (NMF)

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without providing passage for NMF. A person owning or operating an AO shall, prior to construction, fundamental change in permit status or abandonment of the AO in any waters of this state, obtain a determination from ODFW as to whether NMF are or historically have been present in the waters. If ODFW determines that NMF are or historically have been present in the waters, the person owning or operating the AO shall either submit a proposal for fish passage to ODFW or apply for a waiver or exemption. Approval of the proposed fish-passage facility, waiver, or exemption must be obtained from the department prior to construction, permit modification or abandonment of the AO. Approved fish-passage plans, waivers, and exemptions shall maintain adequate passage of NMF at all times (ORS 509.601) as per the approved plan, waiver or exemption.

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

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

**in-water work:** Construction timing restricted to \_\_\_\_ through \_\_\_\_.

**in-water or riparian construction:** For in-water or riparian construction, permittee may be required to obtain additional permits from the Oregon Department of State Lands, the U.S. Army Corps of Engineers, and the DEQ Section 401 certification program prior to construction. The applicant must contact these agencies to confirm requirements.

**live flow:** Once the allocated volume has been stored, permittee shall pass all live flow downstream at a rate equal to inflow, using methods that protect instream water quality.

**off-channel stored water releases:** The permittee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State Engineer to prevent dam failure.

**on-channel reservoir:** The permittee shall design and operate the water storage facility such that all waters within and below the reservoir meet water quality criteria. The permittee shall develop a reservoir operations plan that details how water quality criteria and standards will be met. A Certified Water Rights Examiner shall verify that the reservoir operations are consistent with the plan before a certificate is issued. The reservoir operator shall maintain a copy of the plan and make it available for review upon request.

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

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

**water quality:** All water use under this permit shall comply with state and federal water quality laws. The permittee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards.

**wetland:** The permittee must submit an offsite determination request to the Department of State Lands (DSL) to determine the need for a wetland delineation prior to disturbance or the development of the point of diversion and/or diversion of water.

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☐ In lieu of providing "water-for water", ODFW's Habitat Mitigation Policy allows the applicant the option of providing mitigation through a habitat restoration project that recreates similar habitat structure and function to that existing prior to the development action. If the applicant is interested in pursuing this option, please contact the local ODFW Fish Biologist for further information.

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Conditions

☐ agricultural water quality management area rules

☐ b5

☒ b51a: limit diversion to December-May

☐ b52

☐ b57

☐ b58

☐ blv

☒ construction activities

☐ fence

☐ fishapprove

☒ fishdiv33

☐ fishmay

☐ fishpass

☐ fishself

☐ futile call

☒ in-water work: July 15-September 30

☒ in-water or riparian construction

☒ live flow

☒ off channel stored water release

☐ on-channel reservoir

☒ riparian

☒ water quality

☐ wetland

☐ Other: type here

ODFW Signature: \_\_\_\_\_



Print Name: Jason Brandt

ODFW Title: SW Hydro Coordinator

Date: 5/1/20

Phone: 541-315-6222



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Agreement for application and use:

I hereby give permission for VanDyke Farms and Ben VanDyke to pursue a permit for and a right to apply for a Point of Diversion along creek access to my property and to install perminate and temporary water conveyance pipeline across all parts deemed necessary of tax lot R3404 01701, R2434 03500, R3403 01400. I also herby give VanDyke Farms permission to use water stored as it deems necessary to grow crops on my property.

*[Handwritten signature of James VanDyke]*

James VanDyke  
8456 NW McSween Ln.  
Yamhill, OR 97148

STATE OF OREGON,  
County of Yamhill } ss.  
On January 15, 2020 before me personally appeared James Van Dyke  
whose identity was established to my satisfaction, and who executed the foregoing instrument, acknowledging to me that the same was executed freely and voluntarily.  
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.  
Notary Public for Oregon  
My commission expires May 31, 2022

OFFICIAL STAMP  
PATTI LYNN REID  
NOTARY PUBLIC - OREGON  
COMMISSION NO. 975128  
MY COMMISSION EXPIRES MAY 31, 2022

*[Handwritten signature of Ben VanDyke]*

Ben VanDyke  
VanDyke Farms  
15221 NW Westside Rd  
Yamhill, OR 97148

STATE OF OREGON,  
County of Yamhill } ss.  
On January 15, 2020 before me personally appeared Ben Van Dyke  
whose identity was established to my satisfaction, and who executed the foregoing instrument, acknowledging to me that the same was executed freely and voluntarily.  
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.  
Notary Public for Oregon  
My commission expires May 31, 2022

OFFICIAL STAMP  
PATTI LYNN REID  
NOTARY PUBLIC - OREGON  
COMMISSION NO. 975128  
MY COMMISSION EXPIRES MAY 31, 2022

RECEIVED

APR 12 2021

January 14, 2020

OWRD

## Agreement for application and use:

I hereby give permission for VanDyke Farms and Ben VanDyke to pursue a permit for and a right to apply for a Point of Diversion along creek access to my property and to install perminate and temporary water conveyance pipeline across all parts deemed necessary of tax lot R3404 01700. I also herby give VanDyke Farms permission to use water stored as it deems necessary to grow crops on my property.



John VanDyke  
1255 E. Main St.  
Yamhill, OR 97148

STATE OF OREGON, } ss.  
County of Yamhill  
On January 14, 2020 before me personally appeared John VanDyke  
whose identity was established to my satisfaction, and who executed the foregoing instrument, acknowledging to me that the same was executed freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.

 OFFICIAL STAMP  
SARA ANN MEYER  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 964048  
MY COMMISSION EXPIRES JULY 11, 2021

Notary Public for Oregon  
My commission expires July 11, 2021




Ben VanDyke  
VanDyke Farms  
15221 NW Westside Rd  
Yamhill, OR 97148

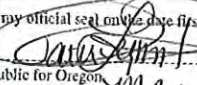


STATE OF OREGON, } ss.  
County of Yamhill  
On January 15, 2020 before me personally appeared Ben VanDyke  
whose identity was established to my satisfaction, and who executed the foregoing instrument, acknowledging to me that the same was executed freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.

 OFFICIAL STAMP  
PATTI LYNN REID  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 975128  
MY COMMISSION EXPIRES MAY 31, 2022

Notary Public for Oregon  
My commission expires May 31, 2022





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January 14, 2020

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Agreement for application and use:

I hereby give permission for VanDyke Farms and Ben VanDyke to pursue a permit for and gain a right to use an irrigation Reservoir on tax lot R3404 01900. This written authorization gives right to apply for a Point of Diversion along creek access to my property and to install perminate and temporary water conveyance pipeline across all parts deemed necessary of tax lot R3404 01900, R3404 03300, R3403 01400. I also herby give VanDyke Farms permission to use water stored as it deems necessary to grow crops.

*Mark VanDyke*

Mark VanDyke

VanDyke Riverview Farms

8456 NW McSween Ln.

Yamhill, OR 97148

STATE OF OREGON,  
County of Yamhill } ss.  
On January 16, 2020 before me personally appeared Mark VanDyke  
whose identity was established to my satisfaction, and who executed the foregoing instrument, acknowledging to me that the same was executed freely and voluntarily.  
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.  
OFFICIAL STAMP  
PATTI LYNN REID  
NOTARY PUBLIC OREGON  
COMMISSION NO. 975128  
MY COMMISSION EXPIRES MAY 31, 2022  
Notary Public for Oregon  
My commission expires May 31, 2022

*B*

Ben VanDyke

VanDyke Farms

15221 NW Westside Rd

Yamhill, OR 97148

STATE OF OREGON,  
County of Yamhill } ss.  
On January 15, 2020 before me personally appeared Ben VanDyke  
whose identity was established to my satisfaction, and who executed the foregoing instrument, acknowledging to me that the same was executed freely and voluntarily.  
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.  
OFFICIAL STAMP  
PATTI LYNN REID  
NOTARY PUBLIC OREGON  
COMMISSION NO. 975128  
MY COMMISSION EXPIRES MAY 31, 2022  
Notary Public for Oregon  
My commission expires May 31, 2022



EXHIBIT "A"

PARCEL I:

Commencing at the Southwest corner of a tract of land set apart to Martha J. Cooper as described on page 373 of Volume No. 3 of the Journal of the Circuit Court of the State of Oregon for Yamhill County, and running thence North with the Southern Pacific Railroad tract with all its angles to the North boundary line of the Donation Land Claim of Chandler Cooper in said County; thence West with the said North Boundary line of said claim, to the Northwest corner thereof; thence South with boundary of claim 40 chains to Southwest corner of said claim; thence East with South line of said claim 21.25 chains to the place of beginning.

Also the following tract of land, to-wit: Situated in said County and State and being part of the Donation Land Claim of Chandler Cooper and wife in Township 3 South, Range 4 West of the Willamette Meridian, in said Yamhill County, Oregon, and said part being bounded as follows, to-wit: Beginning at a point on the South boundary line of said claim which point is 43.04 chains West of Southeast corner of said claim, and being corner of George F. Cooper tract; thence West 17 chains to center of railroad tract above named; thence North 10 deg. 20 min. East 14 chains along the center of said railroad tract; thence North 8 deg. 45 min. East 3.50 chains along center of said railroad track; thence North 6 deg. 30 min. East 2.78 chains to corner of lands deeded to George F. Cooper by P. H. Mesner and wife; thence East along Cooper's South line 13.53 chains to a stone 8 x 10 x 15 inches; thence South 19.74 chains to a stone 10 x 16 inches, and place of beginning.

Also, commencing at a point 9 feet North of the Southwest corner of the Donation Land Claim of Chandler Cooper above named, in said Yamhill County, Oregon; thence North on the West boundary line of said claim; 30 feet to the line between lands of A.L. Fryer and A. Laughlin; thence West about 69 rods on line between lands of Laughlin and Fryer, to center of County Road leading from North Yamhill to Lafayette, Oregon; thence Southeasterly along said road about 30 feet to a point due West of line parallel to the plank fence of A.L. Fryer, now there, and immediately North of said fence; thence East about 69 rods along the North side of said fence to the place of beginning.

Also, beginning at a point 43.22 1/2 chains West of the Northeast corner of the Chandler Cooper Donation Land Claim, Claim No. 45, Notification No. 1583, in Township 3 South, Range 4 West of the Willamette Meridian in Yamhill County, State of Oregon and being part of said Donation Land Claim; thence South 20.20 chains to stone; thence West 13.55 chains to center of the S.P.R.R. right of way, thence North 4 deg. 45 min. East 3.30 chains; thence North 2 deg. 20 min. East 16.65 chains to the North line of said Donation Land Claim; thence East and on said line 12.62 chains to the place of beginning.

The last above described parcel is subject to a roadway of 20 feet in width along and over the South end of said premises.

Also, being a part of the Donation Land Claim of John B. Rowland, Notification No. 1560, Claim No. 44 in Township 3 South of Range 4 West of the Willamette Meridian, in Yamhill County, Oregon, and more particularly described as follows: Policy No.: 162730/55227

Exhibit "A", Page Two

Beginning at a stake set in the center of Third Street in the City of Yamhill in said County and State at a point South 30 min. East 5.095 chains from the Northeast corner of said John B. Rowland Donation Land Claim and at a point North 89 deg. 55 min. East 1.915 chains from the intersection of Third Street and Cedar Street in said City of Yamhill; running thence South 30 min. East along the East line of said J. B. Rowland Donation Land Claim 42.635 chains to a stake at the Southeast corner at a point 4 links West of the Intersection of the present fences; thence South 89 deg. 32 min. West along fence now there 22.61 chains to the center of the County road from which an oak 18 inches in diameter bears East 46 links; thence North 24 deg. 09 min. West along the center of said County Road 85/100 of a chain to an angle in said County Road; thence North 16 deg. 03 min. West along the center line of the said County Road 29.53 chains to a point; thence North 73 deg. 57 min. East at right angles to said County Road 2.77 chains to a stake in the center of the ditch from which an oak 20 inches in diameter bears North 69 deg. West 70 1/2 links; thence following the center of branch creek North 13 deg. 57 min. West 4.14 chains to an angle; thence North 26 deg. 15 min. West 1.735 chains to an angle; thence North 20 deg. 48 min. East 1.385 chains to an angle; thence North 41 deg. 16 min. West 1.858 chains to an angle; thence South 63 deg. 03 min. West 2.70 chains to the center of the County Road; thence North 16 deg. 03 min. West along the center of said County Road 6.05 chains to an iron bolt in the center line of Third Street in said City of Yamhill at a point North 89 deg. 55 min. East 1.91 chains from the intersection of Third Street and Maple Street in said City of Yamhill; thence North 89 deg. 55 min. East along the center line of Third Street in said City of Yamhill 8.125 chains to an iron pipe set at the Northwest corner of the City Park, County Survey No. 2552; thence South 05 deg. East 6.667 chains to an iron pipe set at the Southwest corner of the City Park; thence North 89 deg. 55 min. East 7.498 chains to an iron pipe; thence North 05 deg. West 6.667 chains to an iron pipe in the center line of Third Street at the Northeast corner of City Park; thence North 89 deg. 55 min. East along the center line of Third Street in said City of Yamhill 19.077 chains to the place of beginning.

Also, being a portion of the Donation Land Claim of John B. Rowland and Percila Rowland, his wife, Notification No. 1560, Claim No. 44 in Township 3 South of Range 4 West of the Willamette Meridian, in Yamhill County, Oregon and more particularly described as follows:

Beginning at a point 147 feet East and 435 feet South 15 1/2 deg. East from the Southeast corner of a certain piece or parcel of land deeded to Jeremiah Lenox by F. Hauswirth and wife, and Lee Laughlin and wife on September 8, 1870 and recorded at page 408 of Book "K" Deed Records for Yamhill County, Oregon on September 17, 1870; thence South 15 1/2 deg. East 210 feet; thence East 170 feet to the center of creek; thence running down the center of creek to the place of beginning.

EXCEPTING that portion of the above described property which lies within the boundaries of the right of way of the Southern Pacific Railroad.



Oregon Water Resources Department  
Alternate Reservoir Application

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

Today's Date: Friday, January 17, 2020

Base Application Fee.		\$410.00
Proposed Dam Height in feet.	9.75	
Proposed Reservoir volume in Acre Feet.	9.1	\$350.00
Subtotal:		\$760.00
Permit Recording Fee. ***		\$520.00
*** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	Recalculate	
Estimated cost of Permit Application		\$1,280.00

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**Alternate Reservoir Application Completeness Checklist**

This is the checklist used by WRD staff

Application \_\_\_\_\_ County Yamhill  
 Priority Date \_\_\_\_\_ Township 3S Range 4W Section 4 Taxlot 1900  
 Use Multipurpose Caseworker \_\_\_\_\_  
 Amount (AF) 9.1 Watermaster Joel Flahn

**Minimum Requirements (ORS 537.409)**

- ☒ **Landowner Name, Mailing Address and Telephone Number.**  
☒ **Source and tributary listed. NO WELLS-MUST HAVE GW APP TO USE A WELL AS A SOURCE**  
☒ **Reservoir Location-** Township, Range, Section, Quarter Quarter, Taxlot  
☒ **Dam height, if applicable**  
☒ **Total Quantity of Storage Requested:** 9.1  
☒ **Proposed Use of the water.** Cannot accept application for use of this stored water at the same time (E2)  
☒ **Property ownership indicated?** If applicant does not own all the land is the affected landowner's name and mailing address listed? (Including: lands not owned by applicant, upon which the source is located **OR** that are crossed by the diversion works. This includes any roads or rights-of-way.)  
☒ **Environmental Impact** section completed?  
☒ **Application signed by the landowner(s)?** All parties noted as applicants must sign the application.  
*Must be an original "wet" signature.*  
☒ **Acceptable map \*\* Indicates requirements of standards set forth by the Commission and causes fatal flaw if not provided by the applicant.**
  - ☒ Reservoir Location - noting Township, Range, Section, 1/4 1/4 and Tax Lot number(s)\*
  - ☒ Scale of the Map, even scale such as 1" = 400', 1" = 1000', or 1" = 1320' \*\*
  - ☒ Reference corner on map
  - ☒ North Directional Symbol \*\*
  - ☒ 1/4's clearly identified
  - ☒ Reservoir clearly identified \*\*
  - ☒ Dam or POD (If off channel) Location coordinates referenced to a government landsurvey corner\*  
 If no dam, use coordinates to center of reservoir.\*\*☐ **Completed Watermaster review sheet** signed and dated by Watermaster.  
 Will the reservoir injure an existing water right? ☐ YES ☐ NO  
 If YES, can conditions be applied to mitigate the injury? ☐ YES ☐ NO **If NO, return the application.**  
 Did the watermaster determine when water is available for the proposed use? ☐ YES ☐ NO  
*The Watermaster review sheet must have been completed within the last 6 months.*  
**If the watermaster determined that water is NOT available, return the application.**  
☒ **Completed ODFW review sheet** signed and dated by ODFW representative.  
 Will the reservoir pose a significant detrimental impact to an existing fishery resource? ☐ YES ☐ NO  
 If YES, can conditions be applied to mitigate the impact? ☐ YES ☐ NO **If NO, return the application.**  
*The ODFW review sheet must have been completed within the last 6 months.*  
☐ **Completed Land-Use Form** or receipt signed by the appropriate planning department official enclosed?  
*Does the use on land-use form match the proposed use on the application? Must be an original "wet" signature within the last 12 months.*  
☐ **Provide a Legal Description** of all the property involved with this application. You may include a copy of your deed land sales contract or title insurance to meet this requirement. Base \$410.00  
 Each acre foot \$35  
 Permit Recording \$520.00  
☐ Fees enclosed? Print page from fee calculator  
**Total Paid \$** 1,280 **Total Fees \$** 1,280  
 Completeness Check by: \_\_\_\_\_ Date: \_\_\_\_\_ Revised 2017-8-4

## Appendix A

Developing your water right often entails grading trenching or other types of construction within waterways, riparian areas, and wetlands. Permits from local, state or federal agencies may be required. A good first step is to check with your local city or county planning office. The following information was provided by the Oregon Division of State Lands.

### **Activities in Wetlands and Waterways are Regulated by:**

- The Division of State Lands (DSL) under the State Removal-Fill Law
- The U.S. Army Corps of Engineers (Corps) under the Federal Clean Water Act and Rivers and Harbors Act
- The State Department of Forestry under the Forest Practices Act
- The U.S. Natural Resource Conservation Service (NRCS) under the Food, Agriculture, Conservation and Trade Act
- Some City and County land use ordinances

### **What Areas are Regulated?**

- Rivers streams and most creeks
- Estuaries and tidal marshes
- Lakes and some ponds
- Permanent and seasonal wetlands
- Regulations apply to all lands, public or private
- A wetland does not have to be mapped by the state or otherwise 'designated' to fall under the regulations
- If you are uncertain if there are regulated wetlands on your property, contact DSL for assistance.

### **What Activities are Regulated?**

- Placement of fill material
- Alteration of stream bank or stream course
- Ditching and draining
- Plowing/disking non-farmed wetlands
- Excavation or dredging of material
- In-water construction (may also require a lease from DSL)
- For some activities, joint application forms can be obtained from DSL or the Corps

### **What Activities are Exempt**

- Some routine maintenance activities
- Established, ongoing agricultural activities and grazing
- Some minor projects involving small amounts of fill or removal

### **How are Laws Enforced?**

The best enforcement is to prevent illegal wetland alterations through information and education. However, when violations do occur, a variety of enforcement tools may be used, including restoration orders, fines of up to \$10,000 per day (DSL), civil and/or criminal charges.



# Watermaster Alternate Reservoir Application Review Sheet

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

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

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

<b>Applicant's Name VanDyke Riverview Farms 3S4WSec4 TL 1900</b>		
1. Does the proposed reservoir have the potential to injure existing water rights? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Explain:		
2. Can conditions be applied to mitigate the potential injury to existing water rights? <input type="checkbox"/> YES <input type="checkbox"/> NO Explain: NA		
3. Is water available for the proposed reservoir? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
4. If yes, during what period? Beginning: October End: July  Attach a WARS printout at 50% exceedance. If WARS does not cover the proposed location, make a recommendation for a storage season based upon regulation history and your knowledge of the location. (Water Availability for Reservoir Policy found under OAR 690-410-0070(2)(c))		
5. Did you meet with staff from another agency to discuss this application? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Who:	Agency:	Date:
Who:	Agency:	Date:

Watermaster Name: Joel Plahn

Watermaster Signature: Joel Plahn Date: 4/19/2021

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

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**If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?**

☐ **NO** (explain)

☐ **YES** (select from Menu of Conditions on next page)

ODFW Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_

ODFW Title: \_\_\_\_\_ Date: \_\_\_\_\_

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



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## MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND ODA

Revised June 24, 2011

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

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

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

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

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

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

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

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

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

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

**b51a** The period of use has been limited to \_\_\_\_\_ through \_\_\_\_\_.

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

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

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

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

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

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

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



# Land Use Information Form



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

Applicant: \_\_\_\_\_

First

Last

Mailing Address: \_\_\_\_\_

*Continued*

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## A. Land and Location

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<del>3S</del>	<del>4W</del>	<del>4</del>	<del>NWSE &amp; SWSE</del>	<del>1900</del>		<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	
3S	4W	03		1300		<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	
3S	4W	03		1400		<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	
2S	4W	34		3500		<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	

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

Yamhill

## B. Description of Proposed Use

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

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

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

Estimated quantity of water needed: \_\_\_\_\_ ☐ cubic feet per second    ☐ gallons per minute    ☒ acre-feet

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

Briefly describe:

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

See bottom of Page 3. →