

MONEY SLIP

DATE: 11-18-2021	RECEIPT #: 136901
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RECEIVED FROM: Cynthian Vineyards, LLC

APPLICATION	
PERMIT	
TRANSFER	

CASH <input type="checkbox"/>	CHECK # <input checked="" type="checkbox"/> 5622	OTHER (IDENTIFY) <input type="checkbox"/>
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TOTAL REC'D	\$ 521.00
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1083 TREASURY	4170 MISC CASH ACCT.
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0407 COPIES	\$
____ OTHER: (IDENTIFY) _____	\$

0243 Instream Lease _____ 0244 Muni-Water Mgmt. Plan _____ 0245 Cons. Water _____

1083 TREASURY	4270 WRD OPERATING ACCT.
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MISCELLANEOUS

0407 COPY & TAPE FEES	\$
0410 RESEARCH FEES	\$
0408 MISC REVENUE (IDENTIFY) _____	\$
TC162 DEPOSIT LIAB. (IDENTIFY) _____	\$
0240 EXTENSION OF TIME _____	\$

WATER RIGHTS

	EXAM FEE		RECORD FEE
0201 SURFACE WATER	\$	0202	\$
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$		

WELL CONSTRUCTION

	EXAM FEE		RECORD FEE
0218 WELL DRILL CONSTRUCTOR	\$	0219	\$
____ LANDOWNER'S PERMIT		0220	\$
____ OTHER (IDENTIFY) _____			

0607 TREASURY	0467 HYDROELECTRIC
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0233 POWER LICENSE FEE (FW/WRD)		LIC NUMBER	
0231 HYDRO LICENSE FEE (FW/WRD)			\$
____ HYDRO APPLICATION			\$

SPECIAL INSTRUCTIONS:

RETURN TO APPLICANT -- LETTER ATTACHED

Application for a Permit to
Store Water in a Reservoir
 Alternate Review (ORS 537.409)



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900
 www.oregon.gov/OWRD

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You may use this form for any reservoir storing less than 9.2 acre-feet *or* with a dam less than 10 feet high.

Use a separate form for each reservoir

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant

NAME TIM KINKADE		PHONE (HM)	
PHONE (WK) 541-760-4714	CELL	FAX	
ADDRESS 13945 HWY 22			
CITY DALLAS	STATE OR	ZIP 97338	E-MAIL *** SEE NOTE BELOW

Organization

NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL *

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

AGENT / BUSINESS NAME ASPEN RURAL LAND CONSULTING		PHONE 971.250.1520	FAX N/A
ADDRESS 39290 NW MURTAUGH ROAD			CELL
CITY NORTH PLAINS	STATE OR	ZIP 97113	E-MAIL * SEE NOTE BELOW


Note: Attach multiple copies as needed

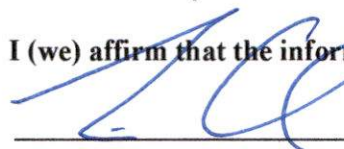
* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

*** DUE TO UNRELIABILITY OF EMAIL AND USPS, PLEASE SEND COPIES OF ALL DOCUMENTS VIA EMAIL AND USPS TO TIM.KINKADE@GMAIL.COM, ERICURSTADT@HOTMAIL.COM AND THE ADDRESSES ABOVE.

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application.
- I cannot legally store water until the Water Resources Department issues a permit.
- Oregon law requires that a permit be issued before beginning construction. Acceptance of this application does not guarantee a permit will be issued.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to get water to which they are entitled.

 **I (we) affirm that the information contained in this application is true and accurate.**



Applicant Signature

Tim Kinkade, trustee

Print Name and Title if applicable

Sept 28, 2021
Date

SECTION 2: SOURCE OF WATER AND LOCATION OF RESERVOIR

Reservoir name:	Barn Pond				
Source*:	Surface Runoff	Tributary:	Hoeskstre Slough		
County:	Polk				
Quantity:	1.0 Acre-Feet [length x width x depth / 43,560]				
Reservoir Location:	Township (N or S)	Range (E or W)	Section	Quarter-Quarter	Tax Lot #
	7 S	5 W	4 5	SW-SW SE-SE	204
Maximum Height of Dam:	2 feet (mainly excavated). If excavated write "zero feet."				

* Provide the name of the water body or other source from which water will be diverted, and the name of the stream or lake it flows into. Indicate if source is run-off, seepage, an unnamed stream, or spring.

SECTION 3: WATER USE

Indicate the proposed use(s) of the stored water: Multipurpose Use

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: stock water, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection and pollution abatement.

SECTION 4: PROPERTY OWNERSHIP

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:
N/A

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SECTION 5: ENVIRONMENTAL IMPACT

Channel: Is the Reservoir: in-stream or off channel?

Wetland: Is the project in a wetland? YES NO unknown

Existing: Is this an existing reservoir? YES NO

If YES, how long has it been in place? 5 years.

Fish Habitat: Is there a fish habitat upstream of the proposed structure? YES NO unknown

If YES, how much? N/A miles.

Existing: 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. N/A

SECTION 6: 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.

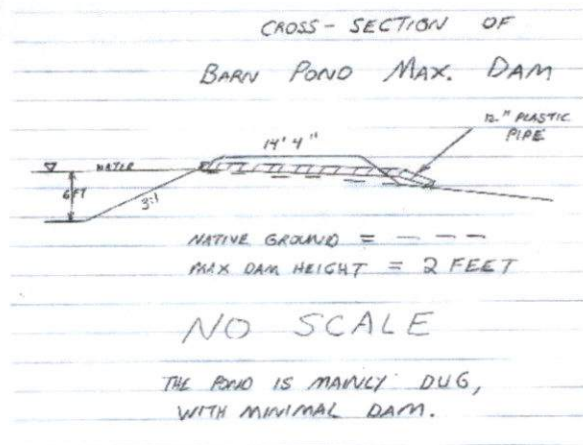
Irrigation District Name: None known		Address:	
City:	State:	Zip:	

SECTION 7: DESCRIPTION

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

The diversion is an earthen dam. For all practical purposes, the pond is filled by water from roof gutters that are on structures nearby. A 12-inch diameter corrugated plastic pipe serves as an outlet through the dam and controls the water depth. Live flow outside the authorized storage season can be controlled by the 3-inch syphon pipe, that is near the 12-inch outlet pipe.

If the diversion involves a dam, use this space below 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).



NOV 18 2021

ODFW Alternate Reservoir Application Review Sheet

OWRD

This portion to be completed by the Applicant					
Applicant Tim Kinkade		Phone No. 541-760-4714		Email. Tim.kinkade@gmail.com	
Address 13945 HWY 22		City Dallas	State OR	Zip 97338	
Reservoir Name: Barn Pond		Source: Surface Runoff		Volume (AF): 1.0	
Township (N or S)	Range (E or W)	Section	Quarter/ Quarter	Basin Name:	<input type="checkbox"/> in-channel <input checked="" type="checkbox"/> off-channel
7 S	5 W	4 5	SW-SW SE-SE	Willamette	

This portion to be completed by Oregon Department of Fish and Wildlife (ODFW) District Staff	
1) Is the proposed project and AO ¹ off channel? (If yes then proceed to #4; if no then proceed to #2)	<input type="checkbox"/> YES <input type="checkbox"/> NO
2) Is the proposed project or AO located where NMF ² are or were historically present? (If yes then proceed to #3; if no then proceed to #4)	<input type="checkbox"/> YES <input type="checkbox"/> NO
3) If NMF are or were historically present:	
a. Is there an ODFW – approved fish passage plan?	<input type="checkbox"/> YES <input type="checkbox"/> NO
b. Is there an ODFW-approved fish-passage waiver or exemption?	<input type="checkbox"/> YES <input type="checkbox"/> NO
<p>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.</p>	
4) Would the proposed project pose any other significant detrimental impact to an existing fishery resource locally or downstream: <i>Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<input type="checkbox"/> Any diversion or appropriation of water for storage during the period _____ through _____ poses a significant detrimental impact to existing fishery resources. <i>(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.)</i> 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.	
<input type="checkbox"/> 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.	
If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource? <input type="checkbox"/> YES (Select from Menu of Conditions on next page) <input type="checkbox"/> NO (explain)	

ODFW Signature: _____ Printed Name: **SEE ATTACHMENT**
"D" - ODFW REVIEW

ODFW Title: _____ Date: _____

NOTE: This completed form must be returned to the applicant

¹ AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)
² NMF = Native Migratory Fish Species in Oregon as defined by OAR 635-412-0005 (32)

NOV 18 2021

Land Use Information Form

OWRD



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266503-986-0900
www.oregon.gov/OWRD

NAME TIM KINKADE		PHONE (HM) -	
PHONE (WK) -	CELL 541.760.4714	FAX N/A	
ADDRESS 13945 HWY 22			
CITY DALLAS	STATE OR	ZIP 97338	E-MAIL TIM.KINKADE@GMAIL.COM

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:
7S	5W	5		204	EFU	<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	Multipurpose*

*Including: farming (irrigation), fire prevention, wildlife, and recreation.

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

Polk

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) Surface Runoff

Estimated quantity of water needed: 1.0 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 _____

Briefly describe:

Obtain Water Right for existing pond

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

App. received 10/12/21

LUC 21-50

E-2/2

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): 136.030(A) "Farm Use" and 136.030(D) "creation, restoration and enhancement of wetlands."
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

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

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

• Invented wetlands located on the property. Contact DSL prior to any development in wetland areas.

Name: Morgan Snyder Title: Assistant Planner
 Signature: Morgan Snyder Phone: 503.623.9237 Date: 10/26/21
 Government Entity: Dolke 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.

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Receipt for Request for Land Use Information

OWRD

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

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))

Applicant's Name Tim Kinkade 7S5WSec4SWSW NWSW Pond 1 and Pond 2		
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: Nov 1 End: June 30		
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: 4/7/2021

NOTE: This completed form must be returned to the applicant

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GRANTOR:
Lisa Lanyon
13945 Hwy 22
Dallas, OR 97338

GRANTEE:
F. Timothy Kinkade Trust
PO Box 86
Monmouth, OR 97361

SEND TAX STATEMENTS TO:
F. Timothy Kinkade
PO Box 86
Monmouth, OR 97361

AFTER RECORDING RETURN TO:
F. Timothy Kinkade
PO Box 86
Monmouth, OR 97361

Escrow No: 471813026972-TTMIDWIL20
530576

13945 Highway 22
Dallas, OR 97338

RECORDED IN POLK COUNTY Valerie Unger, County Clerk	2013-007734 07/17/2013 11:18:44 AM
REC-WD Cnt=1 Str=1 K. WILLIAMS	\$71.00
\$10.00 \$11.00 \$20.00 \$10.00 \$5.00 \$15.00	

STATUTORY WARRANTY DEED

Lisa Lanyon, Grantor, conveys and warrants to F. Timothy Kinkade, Trustee, the F. Timothy Kinkade Trust u/a dated December 3, 2012, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Polk, State of Oregon:

Parcel 2 of PARTITION PLAT NO. 1996-008, recorded April 17, 1996 in Volume 1996, Page 0008 as Fee No. 413036 in Polk County Book of Partition Plats, Polk County, Oregon.

TOGETHER WITH a non-exclusive easement for ingress, egress and utilities over and across a strip of land 30 feet in width and lying 15 feet on each side of the following described centerline:

Beginning at a point which is 883.59 feet South from the Northwest corner of the George Brown Donation Land Claim No. 40 in Township 7 South, Range 5 West of the Willamette Meridian in Polk County, Oregon; thence North 76°25'43" West, 71.56 feet; thence North 00°00'00" East parallel with and 15 feet Westerly from the Easterly line of said Parcel No. 1, Partition No. 1996-008, a distance of 356.30 feet; thence North 89°45'53" West parallel with and 15 feet Southerly of said Easterly line, a distance of 420.00 feet to a point from which an iron rod bears North 77°04'55" West, 68.32 feet and said iron rod being at the Southerly Southwest corner of Parcel 2 of said Partition No. 1996-008 and an angle in the Easterly line of said Parcel 1; thence North 19°15'20" West, 143.25 feet; thence North 02°04'08" East, 102.73 feet; thence North 69°27'51" West, 323.56 feet; thence North 56°35'16" West, 95.43 feet; thence North 03°14'34" West, 118.08 feet; thence North 60°37'18" East, 80.16 feet; thence North 77°03'36" East, 200.64 feet; thence North 50°09'02" East, 124.84 feet; thence North 23°14'27" East, 269.88 feet to a point which is 32.95 feet South 86°38'51" East from the Section Corner common to Sections 4, 5, 8 and 9; thence North 15°12'37" West, 190.49 feet; thence North 13°14'20" East, 134.41 feet; thence North 09°11'02" East, 220.99 feet; thence North 06°07'15" West, 163.25 feet; thence North 25°38'50" West, 383.10 feet; thence North 07°50'40" East, 123.73 feet; thence North 32°54'50" West, 214.02 feet; thence North 45°07'52" West, 255.40 feet; thence North 34°35'40" West, 103.41 feet more or less to a point on the Westerly line of said Parcel 2, Partition No. 1996-008 from which an iron rod bears West, 158.68 feet.

ALSO TOGETHER WITH a non-exclusive easement for ingress and egress and utilities over and across a strip of land 31 feet in width and the East line of said strip being more particularly described as beginning at a point which is 883.59 feet South of the Northwest Corner of the George Brown Donation Land Claim No. 40, said point being on the West line of said Brown

471813026972-TTMIDWIL20
Deed (Warranty-Statutory)

TICOR TITLE 471813026972

C-2/3

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Claim, in Township 7 South, Range 5 West of the Willamette Meridian in Polk County, Oregon; thence South along the west line of said Brown Claim, a distance of 1627.08 feet more or less to an iron rod on the northerly line of U. S. Highway No. 22.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS \$430,000.00. (See ORS 93.030)

Subject to and excepting:

2013/2014 Taxes a lien, but not yet payable.
CCRs, reservations, set back lines, power of special districts and easements of record.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED: 7-16-13

Lisa Lanyon
Lisa Lanyon

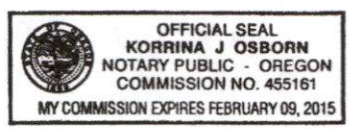
State of OREGON

COUNTY of Polk

This instrument was acknowledged before me on July 16, 2013

by Lisa Lanyon.

[Signature], Notary Public - State of Oregon
My commission expires: 2-9-15



Applicant Name: Tim Kinkade

ODFW Review

ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant.

RECEIVED

Applicant Name: Tim Kinkade

NOV 18 2021

Address: 13945 Hwy 22, Dallas, OR 97338

OWRD

Phone/Email: 541-760-4714/tim.kinkade@gmail.com

Reservoir Name: Barn Pond

Volume (AF): 1.0

Source: Run-off

Basin Name: Hoeskstre Slough<Salt Creek<South Yamhill River

in-channel

Twp Rng Sec QQ: 7S 5W 4/5

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) staff.

1) Is the proposed project and AO¹ off channel?..... YES* NO
(if yes then proceed to #4; if no then proceed to #2)

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

2) Is the proposed project or AO located where NMF² are or were historically present?..... YES NO
(if yes then proceed to #3; if no then proceed to #4)

3) If NMF are or were historically present:

a. Is there an ODFW-approved fish-passage plan?..... YES NO

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

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

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

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

Any diversion or appropriation of water for storage during the period **June-October** 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

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

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

Applicant Name: Tim Kinkade

ODFW Review

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 (winter steelhead and spring Chinook Salmon), sensitive species (Coastal Cutthroat Trout and Pacific Lamprey), and other game fish (Coho Salmon) may be present in Salt Creek and/or South Yamhill River during the period of impact. Instream flows to fulfill C59461 and C59484 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-October. In addition, ODFW (through consultation with ODEQ) determined that the proposed use would impair water quality that supports existing fish resources (e.g., habitat) at or downstream of the Point of Diversion. The primary water quality concerns in the Yamhill basin are temperature loading from diversions, mercury from erosion, and nutrient/sediment/temperature loading from reservoir releases during low-flow summer months defined in the TMDL (May – October), and it is recommended that the applicant not release polluted water from this off-channel reservoir into waters of the state from May 1–October 31, except when the release is directed by the State Engineer to prevent dam failure. Reservoir releases could contain phosphorus and/or mercury which would increase pollutant loading.

Because of these reasons, the proposed use will diminish water quality, physical habitat, and/or 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 result in a significant detrimental impact to an existing fishery resource 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

See applicable conditions selected from “Menu of Conditions” on next page

Water is only available to support the quality and quantity of biologically necessary flows at the POD and/or downstream during November 1-May 31. 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. Without appropriate mitigation and/or conditions, a further reduction in flow or alteration of habitat from the proposed water use will result in a significant detrimental impact to an existing fishery resource. Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water through purchasing or transferring an existing water right. If the applicant chooses to pursue mitigation after application submittal to WRD, ODFW will provide appropriate conditions and a Mitigation Obligation consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations) to compensate for any potential impact from the proposed use. Upon request, the WRD caseworker can schedule a consultation with ODFW for more information.

ODFW Signature: 

Print Name: Jason Brandt

ODFW Title: SW Hydro Coordinator

Date: 9/9/21

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MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND ODA

Revised May 12, 2020

Use this menu to identify appropriate conditions to be included in the permit:

[X] 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.

[] 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.

[X] b51a The period of use has been limited to November-May.

[] 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.

[] Bypass Flows: Per 690-410-0070 (2)(c), the following flows shall be bypassed or passed through the reservoir during the filling season:

- 1) When the biologically necessary flows identified below are not available immediately upstream of the impacted area, the permittee shall pass all live flow downstream at a rate equal to the inflow, minus the amount of mitigation water provided upstream, if applicable, and
2) When the biologically necessary flows identified below are available immediately upstream of the impacted area, the permittee shall pass flow downstream at a rate equal to or greater than the biologically necessary flows.

Once the reservoir has reached the permitted volume, all live flow shall be passed downstream at a rate equal to the inflow.

The permittee shall quantify and document inflow and outflow and maintain the bypass flows for the life of the permit and subsequent certificate per the approved Bypass Plan. The bypass flow data shall be available upon request by the Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, or Oregon Department of Agriculture.

[] 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.

[] 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.

Fish Stocking: Per ORS 498.222 and OAR 635-007-0600, all persons transporting fish in Oregon need to have a fish transport permit issued by the Oregon Department of Fish and Wildlife (ODFW). The permittee shall not stock fish in the reservoir without a fish transport permit approved by ODFW. As part of the permitting process, the permittee must also screen the inlet and outlet of their pond to insure that fish cannot escape into public waters and/or to keep wild fish from entering the pond.

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 type here River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

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.

In-Water Work: Any in-water work related to construction, development, or maintenance of the proposed use shall be conducted during the preferred work period of July 15-September 30 unless an alternate time period is approved by the Oregon Department of Fish and Wildlife.

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.

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.

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.

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

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.

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Aspen

Rural Land Consulting

Water Resources, Water Rights, Land
Surveying, Engineering, Land Use Planning

ERICURSTADT@HOTMAIL.COM
971-250-1520 (MOBILE)

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Water Resources Department
Attn: New Water Right Applications
725 Summer Street NE, Ste. A
Salem, OR, 97301

29 Sep 2021

Subject: New Application to Store Water - Alternate Process

To Whom It May Concern,

Enclosed is an application to Store Water – Alternate Process together with the following attachments:

- A. Application map
- B. Watermaster Review
- C. Deed
- D. ODFW review
- E. Land Use Compatibility Statement
- F. A check made out to "Oregon Water Resources Department" for \$521.00.

Please let me know if there are any concerns or you need any more information.

Respectfully,
Aspen Rural Land Consulting

Eric Urstadt, PE, PLS

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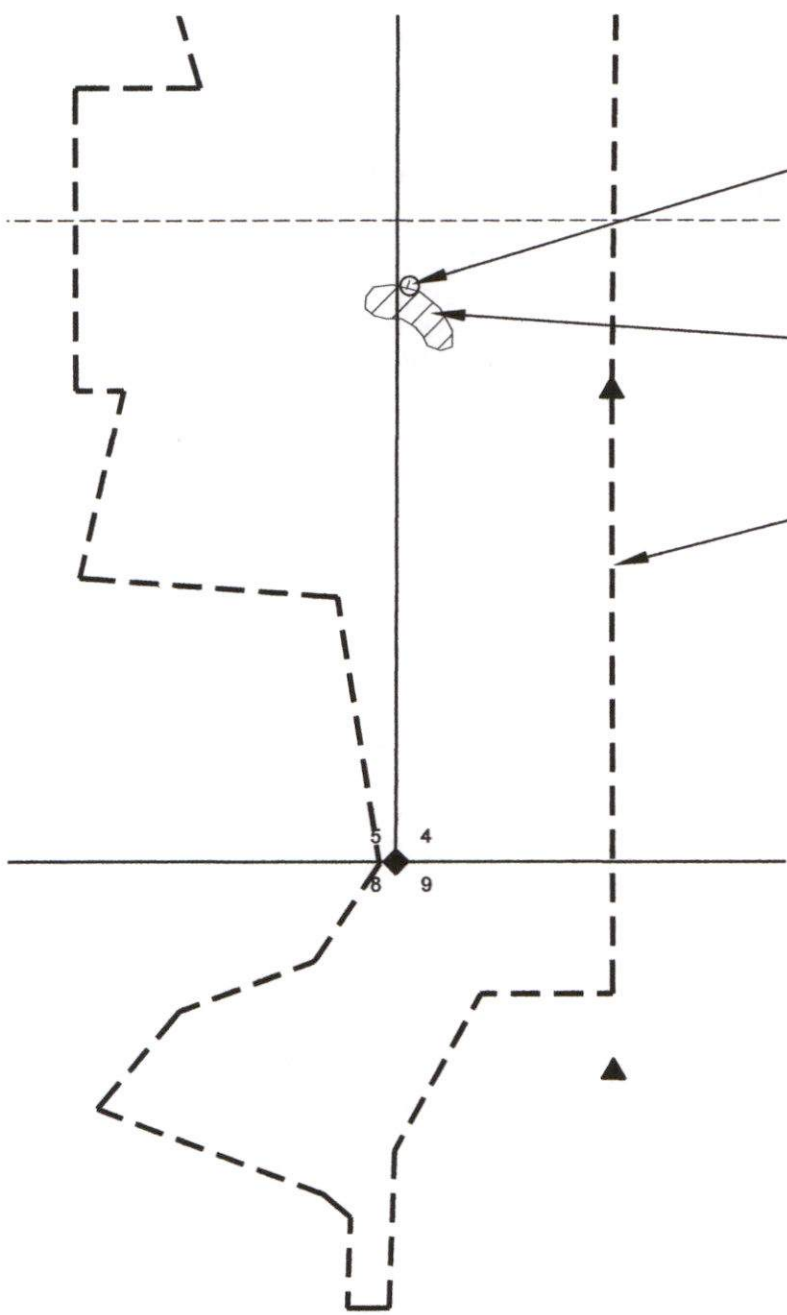
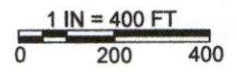
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MAP FOR

Application to Store Water

S4 & 5, T7S, R5W, Polk County

Tax Lot 204



THE POD (A DAM) IS 1185 FEET NORTH AND 25 FEET EAST OF THE SOUTHEAST CORNER OF SECTION 5.

THE DAM OUTLET IS ON THE NORTH SIDE OF THE POND.








BARN POND

TAX LOT 204 BOUNDARY

NOTES:
THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.
-PROPERTY LINES AND QUARTER-QUARTER LINES ARE BASED ON THE TAX ASSESSOR MAP FOR SECTION 5, T7S, R5W.
-WATER CONVEYANCE LINES SHALL BE ALL WITHIN THE PROPERTY AND THEREFORE ARE NOT SHOWN.



LEGEND

-  DONATION LAND CLAIM (DLC) CORNER
-  SECTION CORNER
-  POINT OF DIVERSION OR APPROPRIATION
-  TAX LOT LINE
-  SECTION LINE
-  QUARTER-QUARTER LINE
-  BARN POND

MAP BY:
ASPEN RURAL LAND CONSULTING
ERIC URSTADT, PE, PLS
971-250-1520
Aug 2021
Kinkade1D