

STATE OF OREGON
COUNTY OF Josephine

CERTIFICATE OF WATER RIGHT (HB - 2153)

THIS CERTIFICATE ISSUED TO

EVA EMENY
MCMILLON, GLORIA
5120 CAVES HWY
CAVE JUNCTION, OR 97523

confirms the right to store the waters of
KENNEY CREEK AND SUCKER CREEK IN AN UNNAMED RESERVOIR
for WILDLIFE AND IRRIGATION.

The right to store and use these waters was perfected under Reservoir Application R-76779.
The date of priority is January 1, 1993. The amount of water entitled to be stored and
used each year under this right is not more than 1.34 ACRE-FEET

Located as follows:

SW 1/4 SW 1/4 SECTION 20, TOWNSHIP 39 SOUTH, RANGE 7 WEST WM.

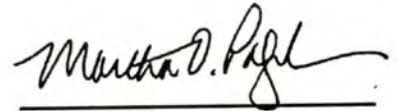
ORS 498.351 and ORS 509.605 through 509.625 provides that no person shall construct an artificial obstruction across a waterway in which anadromous, game or food fish exist unless that person provides a fishway deemed adequate by the Oregon Department of Fish and Wildlife (ODFW). If the subject pond is in-channel and fish are present, the certificate holder is directed to contact the ODFW Fish Passage Program Coordinator, P.O. Box 59, Portland, OR. 97207. If fish presence is in question, the certificate holder should contact the nearest ODFW Fish District office for a determination.

If water is to be diverted from an in-channel pond where fish are present, the certificate holder shall install, maintain and operate fish screening and by-pass devices as required by ORS 498.306 through ORS 498.346 and approved by ODFW. Contact the ODFW Fish Screening Program Coordinator, P.O. Box 59, Portland, OR. 97207. If fish presence is in question, the certificate holder should contact the nearest ODFW Fish District office for a determination.

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, with a minimum diameter of 8", or the provision of other means to evacuate water when determined necessary for public safety or to satisfy prior downstream rights as determined by the Water Resources Director.

The right to store and use the water for the above purpose is restricted to beneficial use at the place of use listed above.

WITNESS the signature of the Water Resources Director, affixed **FEBRUARY 27, 1996**.



Martha O. Pagel

Recorded in State Record of Water Right Certificates numbered 70701

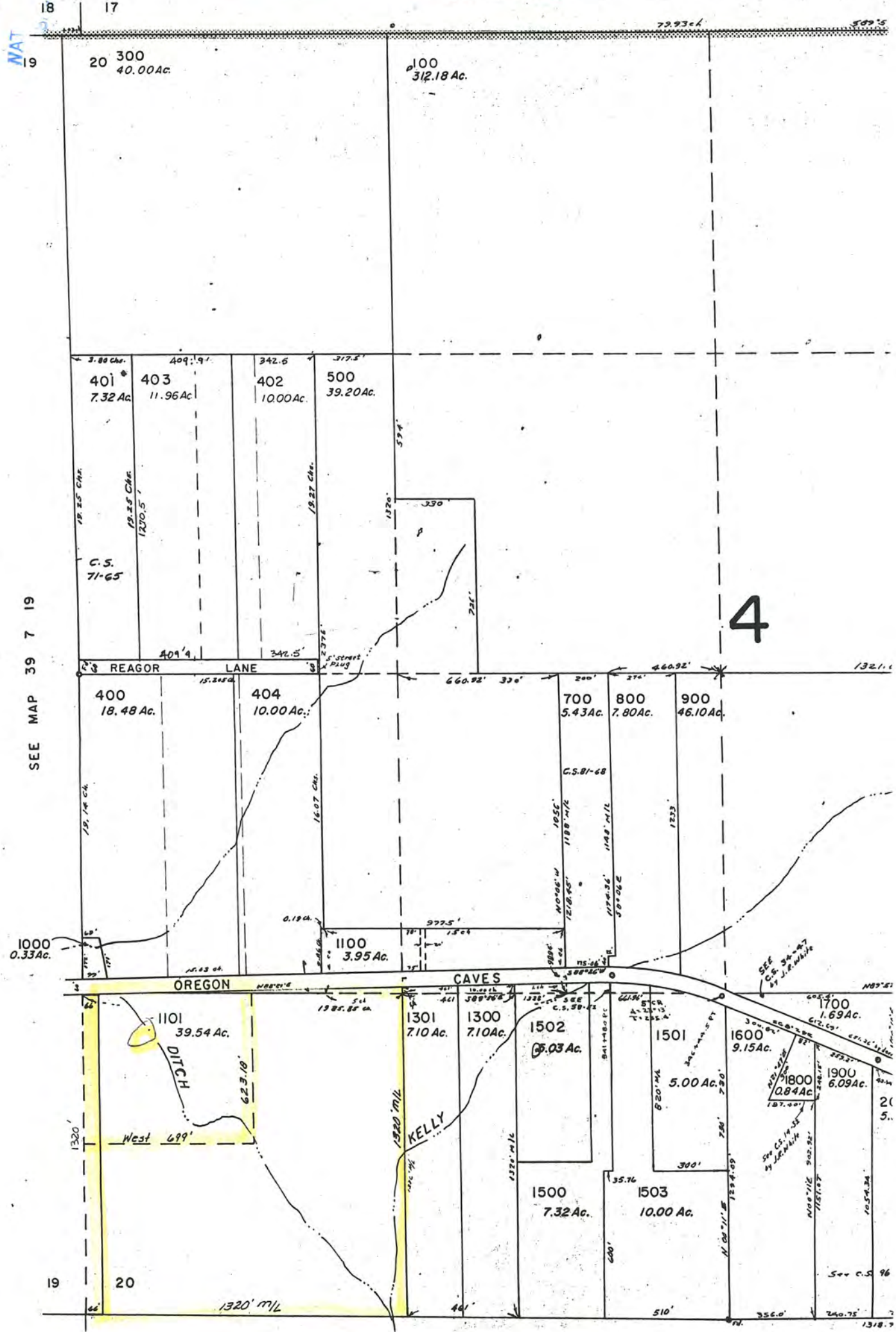
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JAN 19 1995
MATT
DEPT. OF LAND
USE & OCCUPATION
OREGON

Application No. R-76779
Permit No.

1" = 400'

CERTIFICATE NO. 70701

SEE MAP 39 7 17

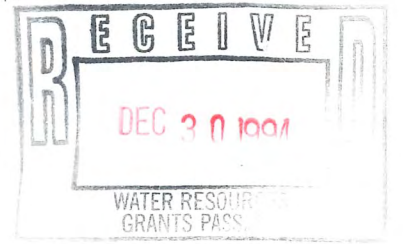


11/10/1994
11/10/1994

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WATER RESOURCES DEPT.
SALEM, OREGON



February 1, 1995

EVA EMENY
MCMILLON, GLORIA
5120 CAVES HWY
CAVE JUNCTION, OR 97523

REFERENCE: File # R-76779;

We have received your application(s) for a water use permit along with your supporting data, documentation, and fees. A receipt is enclosed here unless you were previously issued one. Your application has been assigned the above referenced file number. Please refer to this number whenever you contact us about your application.

Your application will be considered under House Bill 2153 enacted by the 1993 Oregon Legislature. You may continue the storage of water while a decision is pending on your application.

After an application has been accepted for filing, public notification of the application is made, followed by a mandatory 30-day comment period. Thereafter, applications can be considered for processing as time allows.

At present the Water Resources Department has a backlog of several thousand applications for water use permits which has delayed our application processing time. In general, the Department works through Oregon's 18 river basins on a rotating schedule, processing applications in the order in which they have been received.

The processing of an application does not guarantee that a water right permit will be issued. Each application must undergo specialized analysis called a technical review and a public interest review. Until your application is reviewed, it is not possible to determine whether your particular proposed water use will be recommended for a permit.

Technical Reviews are processed in accordance with Oregon Administrative Rules. The Water Resources Commission is considering the adoption of rules to protect stream flows for fish species. This action is being contemplated in response to current and future Endangered Species Act fish listings, including many runs of salmon, steelhead and resident fish throughout the state.



REFERENCE: File(s) - R-76779

The proposed rules, if adopted, could limit the issuance of new water right permits in certain areas of the state. If and when the Commission adopts these rules, new criteria or restrictions may be imposed on water use applications received after:

July 17, 1992, for use of water in the Upper Columbia/Snake Basin (above Bonneville Dam), including the mainstem Columbia and Snake Rivers and the Hood, Deschutes, John Day, Umatilla, Grande Ronde, Powder, Malheur and Owyhee Basins;

April 8, 1994, for use of water in the North Coast, Mid Coast, South Coast, Rogue and Umpqua Basins and the Clackamas Subbasin of the Willamette Basin; and

June 3, 1994, for use of water in all Oregon basins.

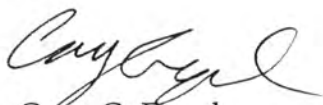
When the report on the technical review is completed and sent to you, a 60-day objection period begins during which you, the applicant, or anyone who has expressed an interest in your proposed water use may communicate to us their disagreement with what we have said in our report on your application. After the 60-day objection period, the Department conducts the public interest review and considers any objections which have been made.

After any objections have been considered, there may follow time to allow parties to resolve conflicts over the proposed water use. In addition, a 30-day protest period may be required. Lastly, it may be necessary to schedule a hearing or send the application to the Water Resources Commission for their review.

If your application is recommended for approval and a permit is issued, the use allowed by the permit will be subject to the Basin Program Rules of the Water Resources Commission, instream flow requirements, the demands of prior right holders and other conditions to conform the water use to particular standards.

Please contact a Water Rights Research Assistant of the Water Resources Department if you have any questions. You may write to us at 158 12th ST NE, Salem, Oregon 97310 or you may call 378-3739 in Salem or toll free from within the state 1-800-624-3199.

Sincerely,



Mr. Cory C. Engel
Water Rights Research Assistant
Water Rights/Adjudication Division

cc: CWRE

February 1, 1995

EVA EMENY
MCMILLON, GLORIA
5120 CAVES HWY
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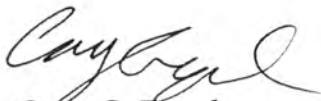
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Sincerely,



Mr. Cory C. Engel
Water Rights Research Assistant
Water Rights/Adjudication Division

cc: CWRE

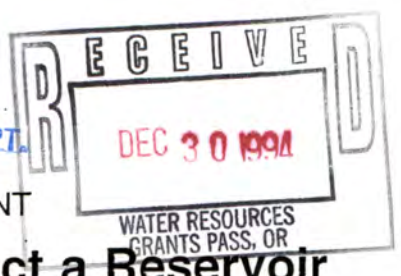
Application No. R-76779

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WATER RESOURCES DEPT.
State of Oregon OREGON

WATER RESOURCES DEPARTMENT



Application for a Permit to Construct a Reservoir

Applicant(s) Eva Emery & Gloria McMillan
(Please print or type - use dark ink)

Mailing Address: 5120 Caves Hwy
Cave Junction OR 97523 503-892-2200
City State Zip Daytime Phone No.

I (We) make application for a permit ~~to construct~~ ^{for existing} Earth Fill pond reservoir and store the following described waters of the State of Oregon:

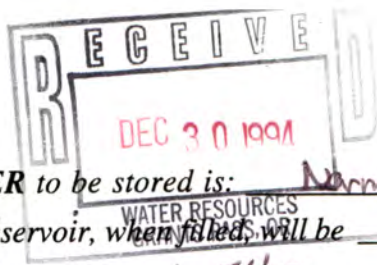
1. **SOURCE OF WATER** for the proposed use: Kelvey Creek + Sucker Crk.
a tributary of _____
If not in channel of a stream, state how it is to be filled: Wells Ditch approx. 1/3 mile

2. **THE DAM:** The maximum height of the structure will be N/A feet above stream bed or ground surface at the centerline.
The dam will be (check one) earthfill, _____ concrete, _____ flashboard, _____ other.
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: 24" spill way
Back into Ditch

NOTE: All dams across natural stream channels must be provided with an outlet conduit, minimum diameter of 8", or be of such capacity and location as to pass the normal flow of the stream at any time.

3. **THE USE(s)** of the impounded water will be: Animal water, Vineyard
irrigation and frost control.



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4. THE AMOUNT OF WATER to be stored is: Normal 1.34 ~~acre-feet.~~ ^{acre-feet.}
The area submerged by the reservoir, when filled, will be .67 acres,
and the maximum depth of water will be 4'-0 feet.

5. SPILLWAY DESCRIPTION (location and dimensions). State whether over or around the dam. at weir Regulation of incoming water & overflow weir at Pond returning to ditch

6. PROJECT SCHEDULE: (List month and year)

Proposed date construction work will begin N/A
Proposed date construction work will be completed N/A
Proposed date water use will be completed N/A

NOTE: Prior to issuance of a permit, it will be necessary to submit a map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the property on which the water is to be used. The legal description may be copied from your deed, title insurance policy, or land sales contract.

7. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):

Applicant CWRE Other (Identify in REMARKS section)

b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):

Applicant CWRE Other (Identify in REMARKS section)

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WATER RESOURCES DEPT.
SALEM, OREGON

8. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? yes. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

REMARKS: Eva Emery Gloria McMillian
5120 Caves Hwy 6059 Dinec
Cave Junction OR San Diego Ca
97523 92122

Daniel Emery
5120 Caves Hwy
Cave Jct OR 97523

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge:

Daniel Emery
Signature

12-30-94
Date

Signature

12-30-94
Date

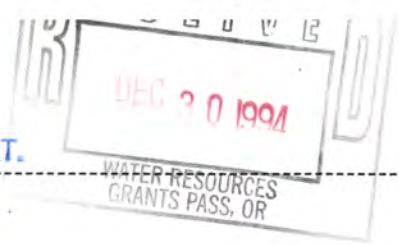
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DEC 30 1994
WATER RESOURCES
GRANTS PASS, OR

Place Check Here

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WATER RESOURCES DEPT.
SALEM, OREGON



FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

_____, 19__.

WITNESS my hand this _____ day of _____, 19__.

Water Resources Director

By: _____

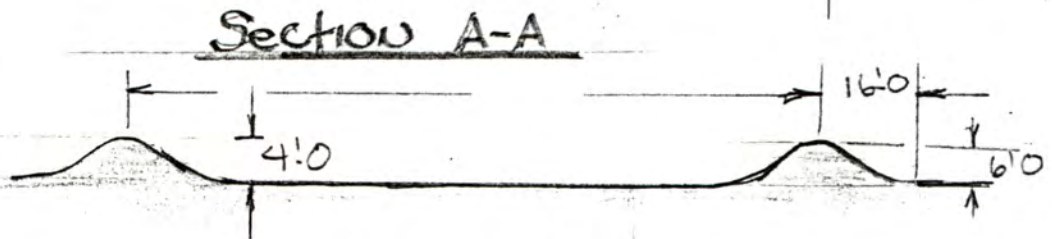
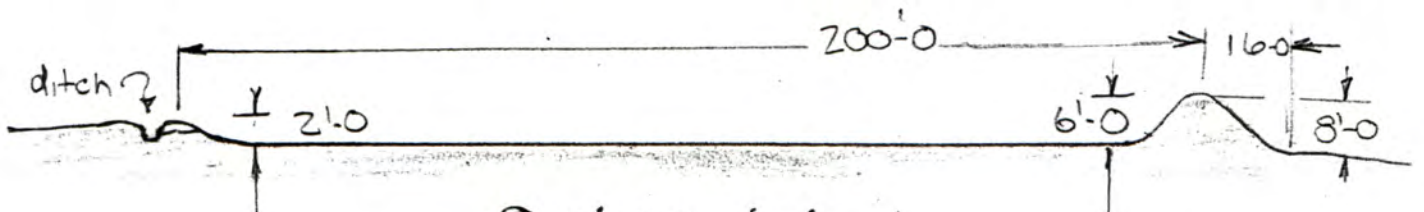
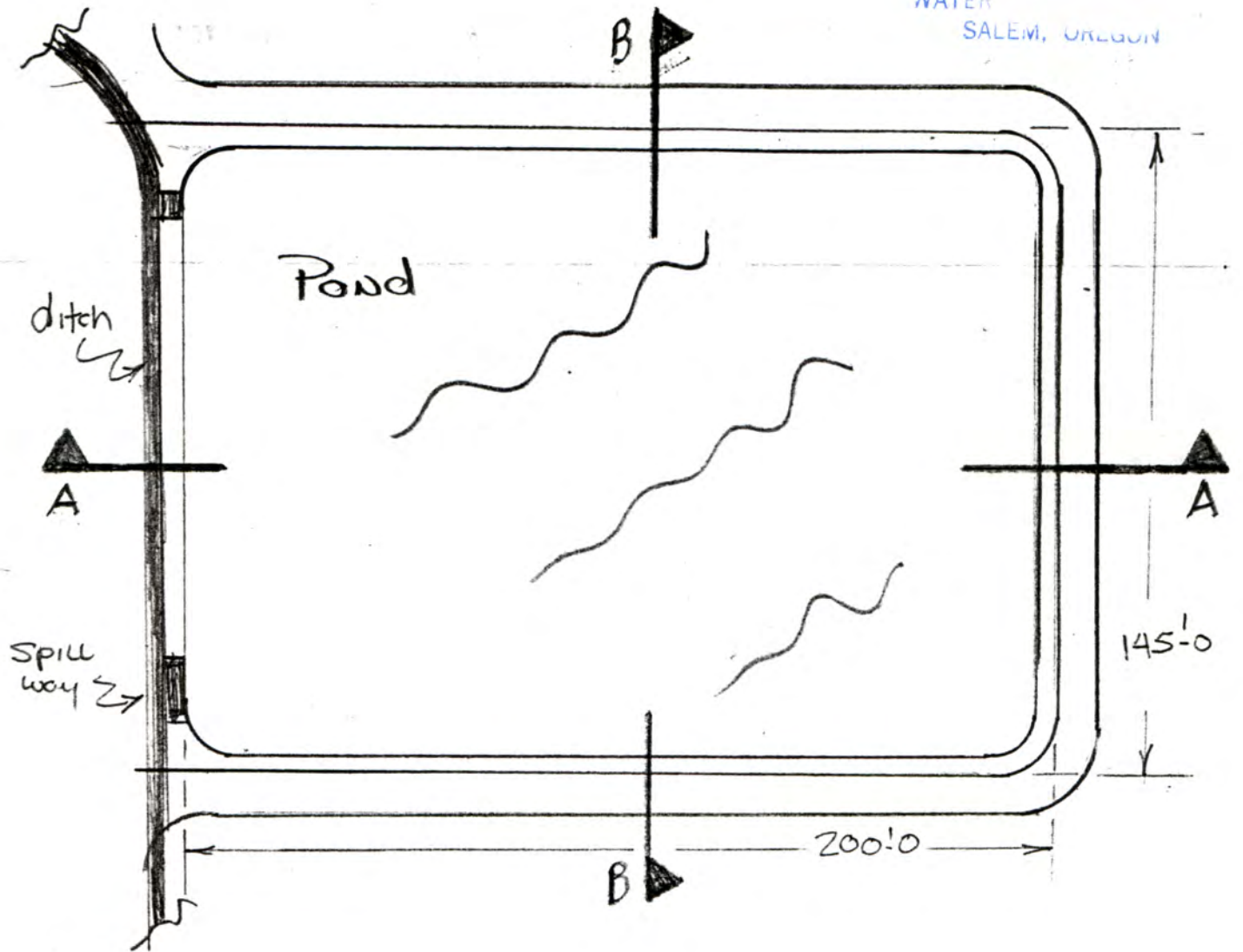
This instrument was first received in the office of the Water Resources #14, Oregon, on the 30th day of Dec., 1994, at ? o'clock, ___ M.

APPLICATION NO: R-76779

Pond: Earth Fill Built: approx: 1935
 Capacity: max to overflow 2.01 Acre feet
 Normal - 1.34 Acre feet

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WATER
 SALEM, OREGON

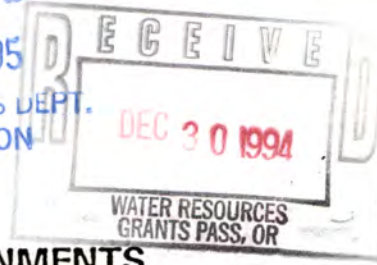


Application No. R-76779 Section B-B
 Permit No.

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WATER RESOURCES DEPT.
SALEM, OREGON



Oregon

WATER
RESOURCES
DEPARTMENT

NOTE TO LOCAL GOVERNMENTS

Application No. R-76779
Permit No.

The person presenting the attached request for land use information is applying for a water right. The Water Resources Department (WRD) requires its applicants to obtain land use information to be sure water rights do not result in land uses that would violate your comprehensive plan.

WRD will not accept applications which are not accompanied by this completed land use form or the signed, dated receipt stub detached from the bottom of the land use information form.

You will receive notice once the applicant formally submits his or her request to WRD. The notice will give more detailed information about WRD's water rights process and comment opportunities. If you give the applicant the receipt stub in lieu of completing the form, you will have 30 days from the date of the notice mentioned above to complete the form and return it to WRD. If no land use information is received from you within that 30 day period, WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan.

Your attention to this request for information is greatly appreciated by both the applicant and WRD. If you have questions concerning the form, please contact WRD at 378-3739.



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

Description of Water Use

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

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WATER RESOURCES DEPT.
SALEM, OREGON

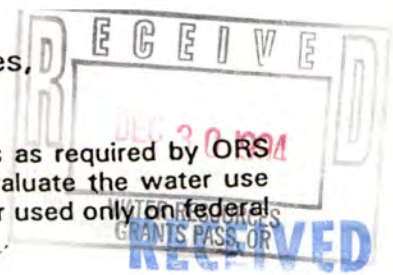
Applicant Name: Eva Emery & Gloria McMillan
 Address: 5120 CAVES Hwy
CAVE Junction OR
97523
 Phone: 503-592-2200

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- Irrigation (crop type, golf course, nursery or greenhouse): Vineyards
- Livestock (type of livestock, feedlot, slaughterhouse): Beef & Horses
- Residential (# units, single or multi-family, # lots if partition or subdivision): N/A
- Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): N/A
- Industrial (i.e., factory, pulp mill, research and development, processing, etc.): N/A
- Institutional (i.e., school, library, etc.): N/A
- Mining (aggregate, metal, open pit, placer, etc.): N/A
- Recreation (park, campsite, pond, etc.): N/A
- Fish and Wildlife (pond, hatchery, etc.): N/A
- Hydropower (dam, reservoir, power generating or transmitting facilities): N/A
- Other (Name and list key characteristics): N/A

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
<input type="checkbox"/> Surface Water Name sources: <u>Kelley Creek & Sucker Creek via wells with</u>	<p style="text-align: center;">?</p> <p>_____ Cubic feet per second.</p> <p style="text-align: center;">?</p> <p>_____ Gallons per minute.</p> <p style="text-align: center;">1.34</p> <p>_____ Acre-Feet</p> <p style="text-align: center;">for Pond</p>
<input checked="" type="checkbox"/> Reservoir or pond	
<input type="checkbox"/> Ground Water	

Land Use Information Form: Permits, Hydroelectric Licenses,
Water Uses in Addition to Classified Uses



This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____ Day Phone: _____

JAN - 4 1995
 WATER RESOURCES DEPT.
 SALEM, OREGON

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) 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.

(CHECK ALL THAT APPLY)

TAX LOT LOCAL ID #	PLAN DESIGNATION/ZONING (e.g. Rural Residential/RR-5)	WATER DIVERTED	WATER CONVEYED	WATER USE
39720 (10)	RR			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

The following section must be completed by a planning official from each county and city listed unless your project will be located entirely within the city limits. In this case, only the city planning agency must complete this form. Please request additional forms as needed.

For Local Government Use Only

Local planning officials are to complete the remainder of this form. If it cannot be completed while the applicant waits, sign and detach the receipt as instructed below. You will receive notice when the applicant's water right request is filed with the Water Resources Department (WRD). You will have 30 days from the notice date to return this completed land use form to WRD. If no land use information is received from you within that period, WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan.

- a) Check the appropriate box below and provide requested information.
- Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s); 64.020. Go to section b) on reverse side.
 - Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table on the reverse of this form. **Note:** Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus accompanying findings is sufficient.)

Receipt for Request for Land Use Information

WRD Applicant Name: _____

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government cannot provide the above requested land use information while the applicant waits.

City or County: _____ Phone: _____
 Staff Contact: _____
 Signature: _____ Date of Information Request: _____

(for Local Use Continued)

(CHECK THE BOX THAT APPLIES)

Type of Land Use Approval Needed (e.g. plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Already Obtained	Already Denied	Being Pursued Satisfactorily
 				

b) Please provide printed name and written signature.

Name: ROBERT N. HART Date: 12-30-94

Title: PLANNER III Phone: 474 5421

Signature: [Handwritten Signature]

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

Additional Comments:



SEC 20 T 33 S. R. 7 W. ↑ N
JOSEPHINE COUNTY, OREGON
PHOTO DATE: 7-1-85
PHOTO SCALE: 1" = 400'

Application No. R-76779
Permit No.

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SALEM, OREGON

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WATER RESOURCES
GRANTS PASS, OR



[Faint, illegible handwritten text]

PRE-TR APPLICATION PROCESSING OUTLINE

Application File # R-76779

MINIMUM REQUIREMENTS TO FILE
OAR 690-11-020

DATE STAMP

DATE

INITIAL

1/24/95

Ca

Name and mailing address of applicant
Source of water
Quantity of water
Map showing location of POD & POU
Use of water
Names and addresses of legal owners
Signature of applicant
Oath
Application date stamped per money receipt date
Land use approved _____ pending _____

If reservoir < 5 AF \$ 50; if > 5 AF \$ _____

HB 2153/HB 2107 APPLICATION -- SEE REVERSE

Route to Data Center (Unless 2153/2107)

DATA CENTER

Stream Code _____
Entered into WRIS _____

SUPPORT SERVICES

3/17/95

PX

Stamp contents with application number
Mail ack letter (provided by Data Center) with receipt to applicant, cc to CWRE and file
Place label on file and calender card

APPLICATION SECTION

Stream Indexed Basin # _____
Plat Carded and copy made YES NO
If dam is over 10 feet or storage exceeds 9.2
AC-FT, route file to Dam Safety Section

TR CASEWORKER

TR Checklist complete YES NO
Within Irrigation District _____
District Notified _____
District excerpt received _____

TR Mailed DATE _____

Public Interest Checklist complete _____

Management Codes _____

REMARKS: _____

MINIMUM APPLICATION REQUIREMENTS TO FILE:

HB 2153 - existing, small, EXEMPT ponds

(date & initials)

NOTICE OF EXEMPT RESERVOIR form (or letter if prior to April 8, 1994).

Appropriate map (see item 1 on form).

Evidence that reservoir existed before January 1, 1993 (one or more of the following: dated aerial photo, NOTARIZED affidavit, dated map from agency, construction receipts or other documentation).

Items 2, 3, 4, 5, and 6 are completed.

Signature (and title, if applicable)

HB 2153 - non-exempt existing ponds (large, on-channel)

Complete Minimum Requirements to File on reverse, except before routing to Data Center, change priority date to 1/1/1993. Also, confirm the following:

yes _____ Receipt of evidence that reservoir existed before January 1, 1993 (one or more of the following: dated aerial photo, NOTARIZED affidavit, dated map from agency, construction receipts or other documentation)

HB 2107 - wetland, stream restoration and storm water management

Complete Minimum Requirements to File on reverse EXCEPT DO NOT ROUTE TO DATA CENTER, BUT DO ROUTE TO CAROL. Also confirm the following:

- _____
Name/address of adjacent property owner
- _____
within 1/4 mile
- _____
Map with scale not less than 2 in.=1 mi.
- _____
CWRE map if > 10 feet dam or > 9.2 AF
- _____
Description of proposed use
- _____
Condition addressed
- _____
Resulting benefits
- _____
Public notices (circle) #1 #2