

**Water Resources Commission Meeting
May 5, 2006
Hermiston, Oregon**

Testimony of Allan Foutch RE: Reservation Request by City of Lincoln City for Multipurpose Storage on Treat Creek (Salmon River Basin)

Good Morning. My name is Allan Foutch and I am Manager of Miami Corporation's Oregon timberlands in the coastal range. A key component of those timberlands includes most of the drainage basin for Treat Creek, the subject of a portion of this Reservation Request and an ongoing contested water rights case between Miami Corporation and Lincoln City. Miami opposes the initiation of the rulemaking process for Treat Creek water reservation sought by the City of Lincoln City, for reasons given in the decade-old current water rights contested case, on safety, economic, procedural and fairness grounds.

My history with Treat Creek goes back over a decade with Miami Corporation and it is likely that I am the only person involved that has walked or studied the majority of Miami's Treat Creek watershed. I have my Bachelor's of Science and Master's of Science degrees in Forest Management, as well as being a Certified Forester under the American Tree Farm system. I am currently a Board Member of the Oregon Forest Resource Institute, the Oregon Small Woodlands Association, and the Oregon Forest Industries Council, for which I am currently Chairman. I have been a practicing forester for over three decades and involved with working forest watersheds in Washington, Alaska and Oregon.

Miami's background with Oregon coastal timberlands stretches back to 1911, being an outstanding and highly respected steward of its lands for almost a century. Miami has been a steady and significant contributor to the local economy for decades, providing year-round employment for local contractors, employees and service providers, as well as hundreds of thousands of dollars into county and state tax coffers each year. In addition, Miami has been an active promoter and participant in wildlife and fish enhancement programs, such as the Oregon Watershed Enhancement Program where Miami has invested over 1.8 million dollars in road and stream improvements over the past decade, with well over two hundred thousand dollars being invested in road and stream structure improvement, as well as riparian protections, in the Treat Creek

watershed. This is in addition to the millions of dollars of investments Miami has made in its road and capital facilities infrastructure, and associated annual maintenance and upgrades.

Since at least 1981, Treat Creek has been one of the potential locations identified by Lincoln City's consultant CH2M Hill as a possible source of water for the City of Lincoln City. (The CH2M Hill study is part of the record for the contested case between Miami and Lincoln City). Treat Creek was then determined by CH2M Hill in 1994 as a relatively high cost option with stream flow and fish habitat protection issues. This led to CH2M Hill's recommendation, based on the more comprehensive review, to NOT proceed with the Treat Creek option at that time (suggested to look into development at some distant future). Still, the City of Lincoln City continued to press onward, leading to its 1993 application for water rights on Treat Creek and Miami Corporation's subsequent protest and Contested Case. Miami has invested in professional biologists, hydrologists and geophysical scientists to examine Treat Creek watershed, its soil structure and stream dynamics, as well as having spent countless hours examining the lands, streams, roads and associated structures. This has been done without any public funding in Miami's interest but also in the interest of sustainable and long-term forest stewardship. It is clear from a biological and safety standpoint that Treat Creek is a poor and illogical choice to supply Lincoln City water based on storage and delivery designs proposed by their consultants (the 110-foot earth dam located on a known fault adjacent to Salmon River Highway). The economic ability of delivering water 13 miles from Treat Creek to Lincoln City is also very questionable. However it is certain that granting Treat Creek water rights to Lincoln City will cause loss of jobs to Miami's employees and its contractors, and also create a substantial safety hazard and loss of fish and wildlife habitat.

Miami's concern for its timberlands and watersheds appears to be mirrored by the Protestants to the Drift Creek project (the signing parties to the Letter of Support). The question is only one of procedure and how to best protect Treat Creek. The difference can best be illustrated by the classic joke where the chicken invites the pig to a breakfast of ham and eggs. When the pig hesitates in his reply, the chicken asks him what the problem is as both are hungry. The pig's reply is that the breakfast only requires a contribution on the part of the chicken, whereas it is a lasting commitment for the pig.

This is the case in front of you today, as Miami is the only party being forced into a lasting commitment of a large portion of its properties and resources in this reservation request.

As I understand from talking and writing to one of the Protestants, the Settlement for the water reservations on Treat Creek was negotiated as a method to remove Lincoln City's water rights application and provide the concerned public parties a voice in the process. Miami, as the land owner and as the party which has been protesting Lincoln City's overreaching water needs, disagrees. **Water reservations should only be allowed to proceed if there is a direct future goal of securing water rights.** If this is not the goal, then the City of Lincoln City is using Treat Creek as a bargaining chip and not as a viable water source. It is unfortunate that the Protestants did not contact or coordinate their Settlement with Miami, the affected landowner, so more background could be shared and strategies for protecting Treat Creek developed. For example, Rick Glick, former attorney for the City of Lincoln City, has twice asked Miami to support Lincoln City's water rights applications on Side Creek in exchange for a relaxing or removal of its' Treat Creek water rights application and has been turned down twice by Miami, as we believe that it is improper to support development on neighboring properties in exchange. Even though both Rock Creek and Side Creek are tributaries of Devil's Lake and are located adjacent to Lincoln City and its water needs, we see the applications as separate from that of Treat Creek, a stream located miles away from intended usage requiring either a pipeline that crosses many coastal mountains, valleys and streams, or would require development of a water intake / suction facility in the anadromous Salmon River below the hatchery.

In summary, the search for Treat Creek water reservations and rights by the City of Lincoln City should have been concluded and removed many years ago and should not be furthered in this request. Quoting a letter written by one of the Protestants Dr. Katen on April 11, 2006, "the Treat River project is the lowest priority of all the proposed dams, because it is the most far-fetched and outrageous scheme." Miami asks that Treat Creek be separated from the proposed rulemaking process and allowed to proceed to its conclusion in an unbiased fashion with its contested water rights case.

Thank you.