



Oregon

John A. Kitzhaber, M.D., Governor

Left msg. for Brown 11/14/00

Water Resources Department

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158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
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November 9, 2000

*Brown - 378-8455
x263*

Elaine M. Stewart
Metro - Smith and Bybee Lakes Wildlife Area Manager
600 NE Grand Avenue
Portland, Oregon 97232-2736

Reference: Application No. R-62601, Permit No. R-8298 - Metro
Application No. 62602, Permit No. 45974

Dear Ms. Stewart:

I am in receipt of your letter of October 17, 2000, requesting certificates of water rights be issued for the above referenced permits. The letter states Proof was made in August 1993 and a draft certificate has been prepared.

Contrary to your statement, proof to the satisfaction of the Director that use of water was perfected under the terms of the permits has yet to be determined. Until such time as proof is determined, your permits are evidence of your authority to store and use water.

If you plan to alter the construction of any dam or facility, you may be required to obtain the services of a licensed engineer to prepare any drawings, plans and specifications and have them approved by the Department's Dam Safety Engineer, prior to initiating any modifications to any dam, if the dam height is ten or more feet in height and the storage capacity is greater than 9.2 acre-feet of water. Please refer to our letter of November 26, 1996, from Dam Safety Section, a copy is enclosed.

Staff will examine the files to determine the adequacy of proof to the satisfaction of the Director as soon as time allows. Feel free to contact me if you have any questions and I will be happy to address any concerns you may have.

Sincerely,

Steve Brown
Certificates

c: John Falk, PE, Safety of Dams
Dwight French, Manager



**METRO**

November 21, 2000

Steve Brown
Water Resources Department
158 12th Street NE
Salem, OR 97301-4172

Dear Steve:

Last week, we discussed your need to resolve the discrepancy in calculations for the storage capacity of Smith and Bybee lakes (application # 62602, permit #45974). I have enclosed pages from the 1987 report by Fishman Environmental Services and other consultants to the Port of Portland. The information includes how the storage capacity calculations were done and includes the resulting capacity curves and other information provided by the consultants. I hope that this information will be helpful to you in resolving the storage capacity issue.

As we discussed, Metro is laying the groundwork to replace the existing dam at the lakes. Obtaining the water storage certificate is one of the last loose ends that we need to tie up to ensure that everything is in order, and we would be very grateful if you could issue the certificate at your earliest convenience.

Please contact me if I may be of further assistance. My telephone number is 503-797-1515.

Sincerely,

Elaine Stewart

Elaine M. Stewart
Smith and Bybee Lakes Wildlife Area Manager

*enclosed: title pp. from tech. appendix to Fishman
Rpt & appx A, page A-4, figs A-3 to A-8*



METRO

November 30, 2000

Steve Brown
Water Resources Department
158 12th Street NE
Salem, OR 97301-4172

Dear Steve:

I found more current information regarding the capacity of Smith and Bybee lakes that should help resolve the storage capacity issue and allow you to issue the certificate for permit #45974. In 1996, Metro completed a study of the lakes that included an updated capacity curve. The new curve is based on soundings taken several years after the Fishman report was issued. Copies of the newer report's title page, storage capacity curve and bathymetric map are enclosed. A computer model was used to input the bathymetric data and generate the capacity curve. I consider this newer curve more accurate and reliable; if you compare the two, please note that the Fishman curve is on Portland datum. You will need to subtract 1.375 ft. to obtain elevations at mean sea level (I was not aware of this when I sent the Fishman data to you).

According to the more recent study, the emergency spillway is actually at 11 ft. msl and not 11.5 ft. Further, standard practice is to hold the water at 10.5 ft. msl. I have no reason to alter this practice. For these reasons, I believe that we should be calculating the needed storage capacity as the difference between 5 ft. and 10.5 ft. msl.

In reading the new curve, I believe the storage capacity is approximately 4,000 acre-feet at a head of 10.5 msl. Because this could even be reduced slightly (perhaps 200 acre-feet) by the water that remains in a few shallow depressions, I believe that the 4,100 acre-feet figure is a *more* accurate representation of storage capacity needed than the 3,100 acre-feet figure, after all.

Thank you for your perseverance in this matter, to help ensure that the certificate that is issued is correct. I believe this information will resolve the issue to your satisfaction.

Sincerely,

Elaine M. Stewart

Elaine M. Stewart
Smith and Bybee Lakes Wildlife Area Manager

*enclosed: 3 PP
from diagnostic
& feasibility study*

Note to file: conversation with Steve Brown of WRD, 12/21/00 *re draft certificate*

Purpose of water right is for managing avian botulism. Does this include the other management work I want to do?

Yes. WRD would consider habitat management (e.g., reed canarygrass flooding) consistent with the water certificate's purpose. If I excluded waterfowl from Smith and Bybee lakes, then WRD might have a problem with it. But WRD has no concern with associated uses that are consistent with the primary use. They would have a problem with impounding the water for irrigation or boating, or other purposes that stray from the original intent. Also, the Columbia Slough has a restrictive use, according to WRD. For example, pollution abatement is a legitimate use of water, but irrigation is not.

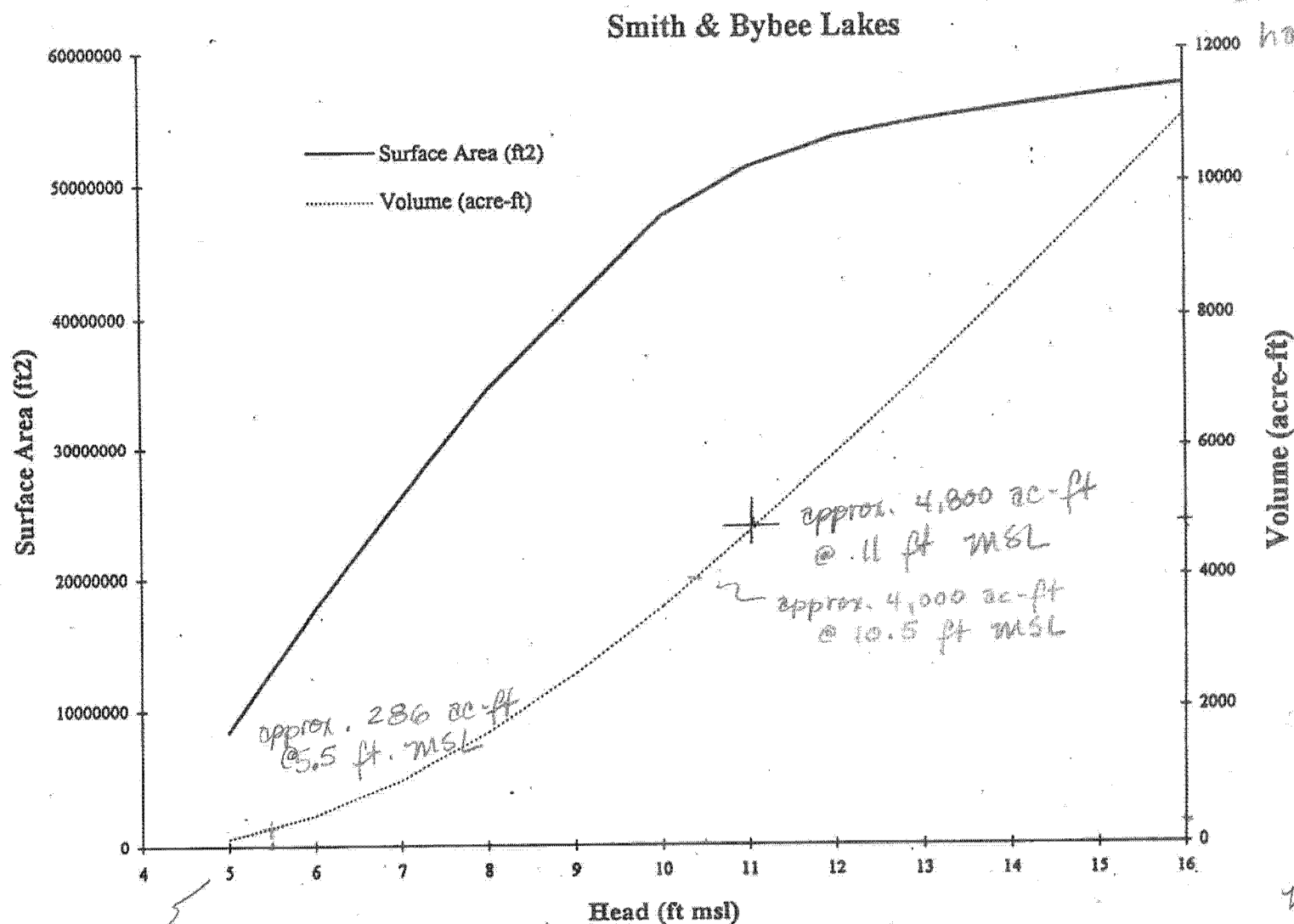
I could petition WRD for more general language on the permit re overall wildlife and habitat management goals, but this is not necessary for WRD – I would just be doing it for my own administrative purposes.

WRD will consider my wildlife and habitat management practices consistent with the permit & certificate.

Since that was my only question, Steve will forward the draft certificate to the person who completes the process. There are a couple of hundred certificates to be completed, and I will be done in the same batch. He forecasts early Feb. or so for the final certificate.

lms

Figure 4 Smith & Bybee Lakes Surface Elevation/ Area Relationship



Qreg. Water Resources
Dept. storage permit
is for 3,100 ac-ft.
or 4,100 ac-ft. (WRD
has conflicting info.)

4,800
- 286
4,514 net ac-ft
@ 11 ft.
head
(storage)

Not likely to ever
hold 11 ft. into late
summer.

Current low point @ outfall
is 5.5 ft. Lake elevations
don't appear to go below 5 ft.

Fishman = Portland datum

subtract 1.375 ft to get to MSL