

CURT SMITCH
Director



STATE OF WASHINGTON
DEPARTMENT OF WILDLIFE

5405 N.E. Hazel Dell Ave., Vancouver, WA 98663 Tel. (206) 696-6211

RECEIVED
'93 DEC -6 11:37

December 2, 1993

Jill Van Hulle
Water Resources
Department of Ecology
7272 Cleanwater Lane
Olympia, WA 98504-6811

Dear Ms. Van Hulle:

SUBJECT: SURFACE WATER AND RESERVOIR APPLICATION S2-28574 AND R2-28575,
JOHN MULLENIX, DAVIS CREEK, S16 T12N R8E

We have received the above referenced applications and apologize for the lateness of this response. We recommend that the application be denied, due to likely significant adverse impacts to resident and anadromous fisheries resources in Davis Creek, that would result from potential structure failures, fish stranding, stream morphology destabilization, passage barriers, etc.

As you correctly noted in your cover letter, we have denied Mr. Mullenix' application to construct the project as described. We have included a copy of the denial letter for your information. We anticipate that the project may be resurrected in the future in a different form and will consider further water right applications at that time.

Additionally, I have been transferred to Cowlitz County; the new area habitat biologist in Lewis County is Ms. Anna Bruce, 249 Harms Road, Ethel, WA 98542. Further communication on this issue should be directed to her at that address.

Please feel free to contact me if I can offer any clarification of these comments.

Sincerely,

Robert J. Bicknell
Area Habitat Biologist

cc: Bryan Cowan
Anna Bruce
Connie Iten, Olympia

CURT SMITCH
Director



STATE OF WASHINGTON
DEPARTMENT OF WILDLIFE

5405 N.E. Hazel Dell Ave., Vancouver, WA 98663

Tel. (206) 696-6211

June 4, 1993

John Mullenix
11162 US Hwy 12
Randle, WA 98377

Dear Mr. Mullenix:

**SUBJECT: HYDRAULIC PROJECT APPLICATION, CONSTRUCTION OF AN OFF
CHANNEL GRAVEL SUMP, DAVIS CREEK, WRIA 26, SECTION 16 TWP 12N,
RNG 8E**

As you know, we have been reviewing your project proposal over the last number of months. Through a series of on-site reviews by both biologists and engineers, and discussions among relevant staff, we have determined that the project as described will likely lead to significant adverse impacts to resident and anadromous fish and fish habitat within Davis Creek. Consequently, we are denying your application to construct the above referenced project.

I have enclosed for your review a copy of a letter from Ken Bates of the Washington Department of Fisheries, who is experienced in the design, maintenance, and functionality of the type of project you propose. He points out that the proposed sump is in a "high energy location; the facility would have to be stout with adequate side walls, cut-off walls, and energy dissipation." He notes that if it failed there would be "substantial upstream head cutting and channel movement." He also notes that if the "sump is successful, the adjacent channel will be depleted of gravel and degrade." Additionally, "adult and juvenile strandings would occur in the pond." These points emphasize the high potential for failure and adverse impacts on fish habitat in Davis Creek.

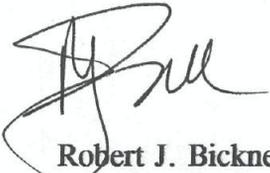
We recommend that if you desire to pursue this project, that you contact a qualified civil engineer that is experienced in unstable fluvial systems and solicit his assistance in the design.

S

page two.
John Mullenix
June 4, 1993

Please understand that the project is not necessarily dead, but that there are some substantial hurdles to overcome before it may be implemented. Feel free to call me at (206) 274-9814 if I can clarify any of these points. Thank you.

Sincerely,



Robert J. Bicknell
Area Habitat Biologist

cc: Bryan Cowan
Gordon Zillges, Olympia

S

CHRISTINE O. GREGOIRE
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7272 Cleanwater Lane, LU-11 • Olympia, Washington 98504-6811 • (206) 753-2353

August 17, 1993

Bob Bicknell
Department of Wildlife
908 Smith Road
Toutle, Wa 98649

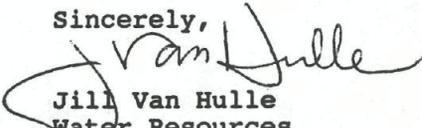
Dear Mr. Bicknell:

Re: Surface Water and Reservoir Applications S2-28574 and R2-28575

As we discussed, I am sending you copies of the Mullenix applications for your review. The applications were sent to your agency earlier in the year, but we haven't received comments yet. It is my understanding that the Department's of Fisheries and Wildlife have denied Mr. Mullenix hydraulic project approval, and are recommending denial of these application based on adverse impact to Davis Creek.

If possible, could you coordinate your comments with Ken Bates at the Department of Fisheries. Thank you for your attention to this matter.

Sincerely,


Jill Van Hulle
Water Resources

JVH:th

cc: File S2-28574
R2-28575
Ken Bates, Dept. of Fisheries MS-43155

S

CHRISTINE O. GREGOIRE
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7272 Cleanwater Lane, LU-11 • Olympia, Washington 98504-6811 • (206) 753-2353

October 29, 1992

John and Carolyn Mullenix
11162 US Highway 12
Randle, Washington 98377-9110

Dear Mr. and Mrs. Mullenix:

Re: Reservoir Water Application No. R 2-28575

We acknowledge receipt of your affidavit of publication of notice in connection with the above-numbered application.

The water codes require that no action be taken toward issuance of a permit earlier than thirty (30) days after the last date of publication. This period of time is allowed for filing any protests or objections. In some cases it is also necessary for us to await approval of the Departments of Fisheries and Wildlife before issuing permits.

A site investigation will be made by this office before we issue a permit decision. In light of our water right backlog, we estimate it will be about 18 months after receipt of your applications before we are able to conduct the site investigation.

Sincerely,

Sheri Fox
Water Resources

SF:lo(12B)

AFFIDAVIT OF PUBLICATION

STATE OF WASHINGTON)
COUNTY OF LEWIS)

SS

The undersigned, on oath states that he is an authorized representative of The Journal, a weekly newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a weekly newspaper in Morton, Lewis County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper.

The notice in the exact form annexed, was published in regular issues of The Journal, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a Application to Construct

was published on September 2 & 9, 1992

The amount of the fee charged for the foregoing publication is the sum of \$ 34.40

Pam Davis

Subscribed and sworn to before me this 22 day of September 19 92

Tracie A DeVal

Notary Public in and for the State of Washington
Residing at Morton.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY
NOTICE OF APPLICATION TO
CONSTRUCT A RESERVOIR AND
STORE PUBLIC WATERS

TAKE NOTICE: That John and Carolyn Mullenix of Randle, Washington on July 1, 1992 under Application No. R2-28575 filed for permit to construct a reservoir and store therein the public waters Mullenix Pond tributary of Davis Creek in the amount of 12 acre-feet, subject to existing rights, for the purpose of irrigation during the irrigation season that the approximate location of the impounding structure is within NW 1/4 NW 1/4 of Section 16, Township 12 N., Range 8E W.M., in Lewis County. Protests or objections to approval of this application must include a detailed statement of the basis for objections: protests must be accompanied by a two dollar (\$2.00) recording fee and filed with the Department of Ecology, at the address shown below, within thirty (30) days from September 9, 1992. Dept. of Ecology, P.O. Box 47775, Olympia WA 98504-7775.

Published in The Morton Journal

affidavit of
10/28/92
SF

CHRISTINE O. GREGOIRE
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7272 Cleanwater Lane, LU-11 • Olympia, Washington 98504-6811 • (206) 753-2353

October 13, 1992

John and Carolyn Mullenix
11162 US Hwy 12
Randle, Washington 98377-9110

Dear Mr. and Mrs Mullenix:

Re: Reservoir Water Application No. R 2-28575

On August 10, 1992, this office sent a notice to you for publication in a newspaper within Lewis County.

We have not received the necessary affidavit of publication and, therefore, cannot continue to process application.

Please reply within thirty (30) days or, if you are no longer interested in the application or obtaining a water right, please sign the statement below and return to this office.

I am no longer interested in processing the Surface Water Application No. R 2-28575 for obtaining a water right and I hereby agree to it being cancelled.

I understand that after the effective date of cancellation, any use of the surface water is a violation in accordance with Chapter 90.03 RCW and subject to enforcement action.

Signature

Sincerely,

Sheri Fox
Water Resources

SF:th(6AS)

PLEASE NOTIFY OF ADDRESS CHANGE

CHRISTINE O. GREGOIRE
Director



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

7272 Cleanwater Lane, LU-11 • Olympia, Washington 98504-6811 • (206) 753-2353

August 10, 1992

John and Carolyn Mullenix
11162 US Hwy 12
Randle, Washington 98377-9110

Dear Mr. and Mrs. Mullenix:

Re: Reservoir Water Application No. R 2-28575

Your application for the appropriation of water has been assigned the above-referenced number. Please refer to this number in future correspondence.

Enclosed is a notice of your application which must be published once a week for two consecutive weeks in a qualified legal newspaper of general circulation in the County or Counties in which the storage, diversion, and use is to be made and in other newspapers as directed. A list of these newspapers in your county is enclosed. The applicant is responsible for the payment of the publication.

Please read the notice carefully to make sure it is correct. Should you find an error, please return the notice to our office for correction.

You should mail or deliver the enclosed notice to a newspaper regarding publication as soon as possible. When you receive the affidavit of publication from the newspaper, please forward it to this office promptly.

A site investigation will be made by this office before we issue a permit decision.

In light of our water right backlog, we estimate it will be about 18 months after receipt of your application before we are able to conduct the site investigation.

Sincerely,

Sheri Fox
Sheri Fox TH
Water Resources

SF:th
Enclosures

S

NOTICE OF APPLICATION TO CONSTRUCT A RESERVOIR
AND STORE PUBLIC WATERS

TAKE NOTICE:

That John and Carolyn Mullenix
of Randle, Washington on July 1, 1992 under
Application No. R 228575 filed for permit to construct a reservoir and store
therein the public waters Mullenix Pond
tributary of Davis Creek
in the amount of 12 acre-feet, subject to
existing rights, for the purpose of irrigation during the irrigation season
that the approximate location of the impounding structure is within NW¼ NW¼
of Section 16, Township 12 N., Range 8E W.M.,
in Lewis County.

Protests or objections to approval of this application must include a detailed statement of the basis for objections; protests must be accompanied by a two dollar (\$2.00) recording fee and filed with the Department of Ecology, at the address shown below, within thirty (30) days from

(Last date of publication to be entered above by publisher)

Dept of Ecology
P.O. Box 47775
Olympia wa 98504-7775