



US Army Corps  
of Engineers  
Portland District

# PUBLIC NOTICE

## for PERMIT APPLICATION

Issue Date: August 4, 2004

Expiration Date: August 19, 2004

Corps of Engineers Action ID: 200400394

Oregon Division of State Lands Number: N/A

15 Day Notice

**Revision** (See Page 3 with \* by the correction)

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States, as described below and shown on the attached plan.

**Comments:** Comments on the described work should reference the U.S. Army Corps of Engineers number shown above and should reach this office no later than the above expiration date of this Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers  
ATTN: CENWP-OP-GP (Ms. Mary J. Headley)  
P.O. Box 2946  
Portland, Oregon 97208-2946

**Applicant:** US Department of Agriculture, US Forest Service, Wallowa-Whitman National Forest, La Grande Ranger District, 3502 Highway 30, La Grande, Oregon 97850

**Location:** Intermittent tributaries of Fly Creek, Township 05 South, Range 35 East, Sections 10, 13 & 14, near Starkey, Union County, Oregon

**Project Description:** This project would construct three drawbottom stock ponds in the Upper Grande Ronde watershed. Fill material excavated from the pond would be used to create an earthen berm to detain spring runoff within the pond. Each pond will measure approximately 40 feet in diameter, with berms approximately 24 feet wide at the base with a 6-8 foot flat top. An overflow channel will be constructed to allow release of excess water. Each earthen berm would involve approximately 260 cubic yards of material. Total disturbed area within waters of the United States, for all 3 ponds, would be approximately 0.27 acre.

**Purpose:** The proposed project site is within the Upper Grande Ronde Range Planning Area of the Wallowa-Whitman National Forest, Sheep Range Allotment. The Wallowa-Whitman National Forest's Forest Plan identifies standards and guidelines that address allowable forage use in upland and riparian areas. Presently livestock have open access to Fly Creek and the intermittent tributaries. This project would construct approximately one mile of pasture fence and develop livestock watering ponds to restrict livestock access of Fly Creek, which would improve water quality and address potential indirect effects on populations or critical habitat for Federally protected fish species, and bring this area into compliance with Forest Plan standards and guidelines.

**Drawings:** Four (4) Drawings

**Additional Information:** Additional information may be obtained from Ms. Mary J. Headley, 541-962-0401, U.S. Army Corps of Engineers at the La Grande Field Office, 3502 Highway 30, La Grande, Oregon 97850.

**Authority:** This permit will be issued or denied under the following:

Section 404, Clean Water Act (33 U.S.C. 1344), for discharge of dredged or fill material into waters of the United States.

**Special Conditions:** The requested permit, if issued, shall be subject in part to the following conditions:

- a. The La Grande Ranger District is required to comply with the terms and conditions of the ESA consultation completed with the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries), dated April 28, 2000, in order to minimize potential adverse affects of the proposed project activities on Snake River spring/summer and fall Chinook salmon, and Snake River steelhead trout.
- b. The La Grande Ranger District is required to comply with the terms and conditions of the ESA consultation completed with the US Fish and Wildlife Service (USFWS), dated May 11, 2000, in order to minimize potential adverse affects of the proposed project activities on Columbia River Bull trout.
- c. The La Grande Ranger District is required to comply with terms and conditions of the State Historic Preservation Office letter dated, July 20, 2004, in order to minimize potential adverse affects on cultural resources that may be encountered during excavation or other construction activities.

**Water Quality Certification:** A permit for the described work will not be issued until certification, as required under Section 401 of the Clean Water Act (P.L. 95-217), has been received or is waived from the certifying state. Attached is the state's notice advertising the request for certification.

**Section 404(b)(1) Evaluation:** The impact of the activity on the public interest will be evaluated in accordance with the Environmental Protection Agency guidelines pursuant to Section 404(b)(1) of the Clean Water Act.

**Coastal Zone Management Act Certification:** A permit for the described work will not be issued until the state has concurred with the applicant's certification that the described activity affecting land or water uses in the Coastal Zone complies with the State Coastal Zone Management Program. Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3) requires the applicant to provide a Certification of Consistency statement. If the state fails to concur or object to the certification statement within six months, state concurrence shall be conclusively presumed. Attached to this Public Notice is a notice of application for Certification of Consistency with the State's Coastal Zone Management Program.

**Public Hearing:** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

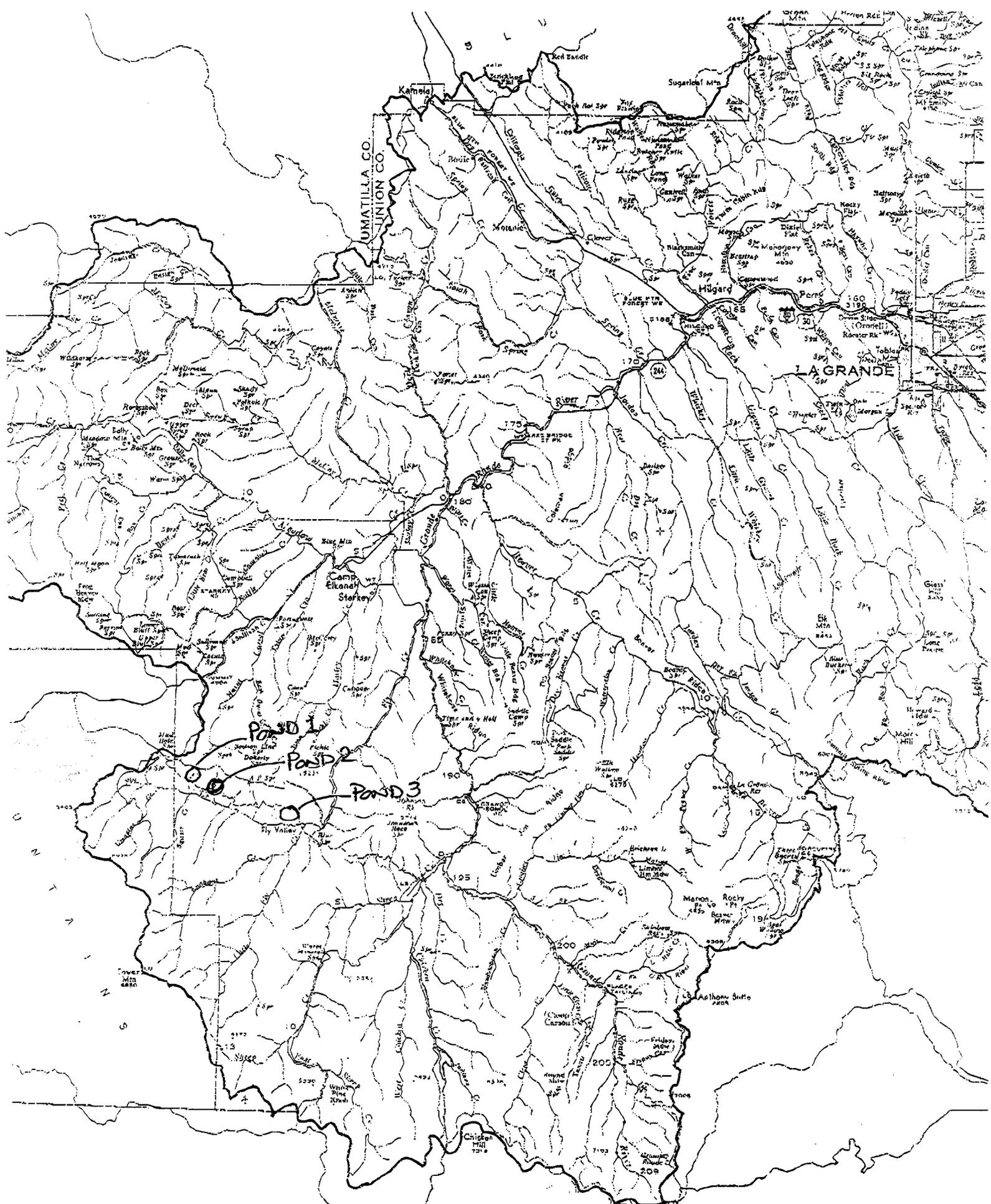
**\*Endangered Species:** Preliminary determinations indicate that the proposed activity may affect an endangered or threatened species or its critical habitat. The applicant consulted under Section 7 of the Endangered Species Act of 1973 (87 Stat. 844) with the appropriate federal resource agencies.

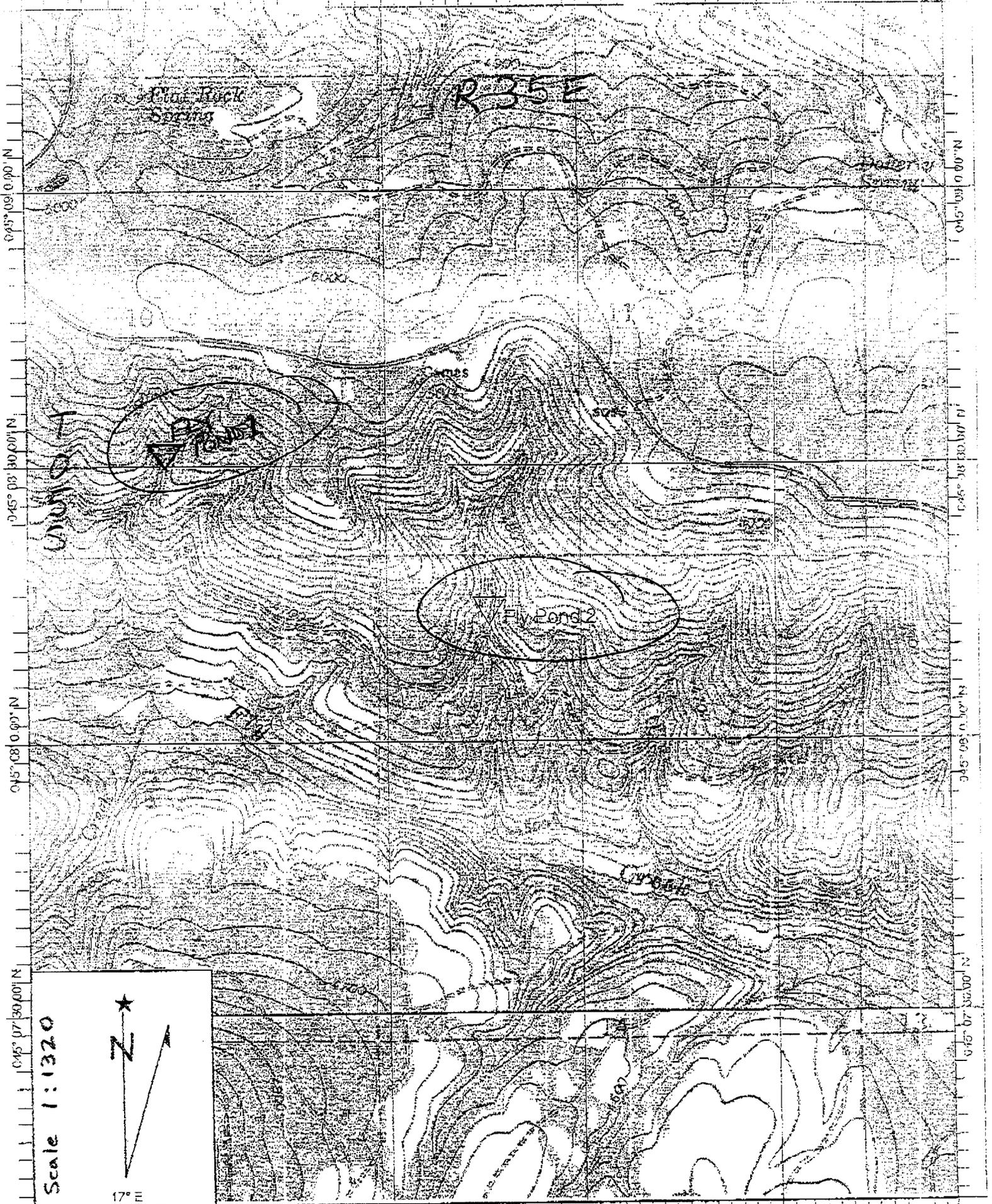
**Cultural Resources:** The described activity is not located on property registered or eligible for registration in the latest published version of the National Register of Historic Places. This notice has been provided to the State Historic Preservation Office. The SHPO provide their comments to the Corps in a letter dated July 20, 2004.

**Evaluation:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the described activity will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**Additional Requirements:** State law requires that leases, easements, or permits be obtained for certain works or activity in the described waters. These State requirements must be met, where applicable, and a Department of the Army permit must be obtained before any work within the applicable Statutory Authority, previously indicated, may be accomplished. Other local governmental agencies may also have ordinances or requirements, which must be satisfied before the work is accomplished.





045° 07' 30.00" N  
045° 08' 00.00" N  
045° 08' 30.00" N  
045° 09' 00.00" N  
045° 09' 30.00" N  
045° 10' 00.00" N

045° 07' 30.00" N  
045° 08' 00.00" N  
045° 08' 30.00" N  
045° 09' 00.00" N  
045° 09' 30.00" N  
045° 10' 00.00" N

Scale 1:1320

17° E

R 35 E

Springs

Fly Pond 3

FLY FLY

ONAL FOREST

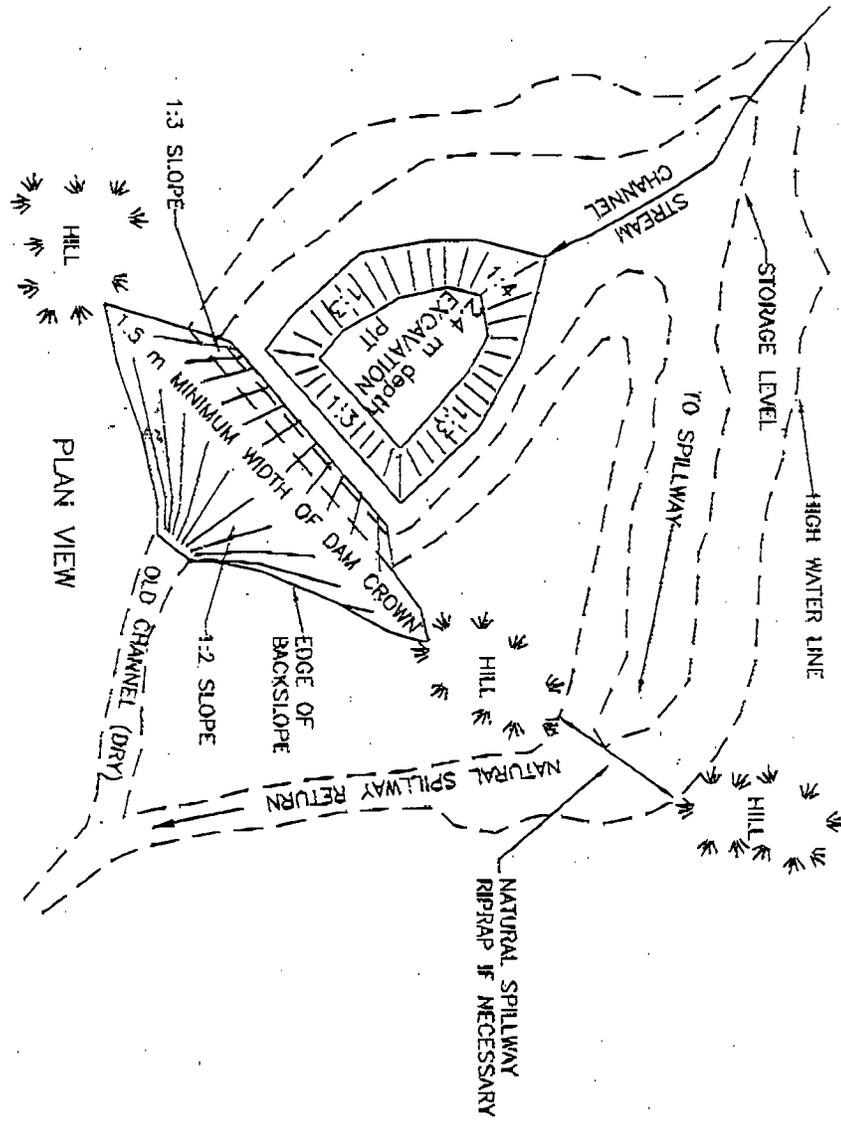
045° 08' 30.00" N  
045° 08' 00.00" N  
045° 07' 30.00" N  
045° 07' 00.00" N

118° 29' 30.00" W  
118° 29' 00.00" W  
118° 28' 30.00" W  
118° 28' 00.00" W

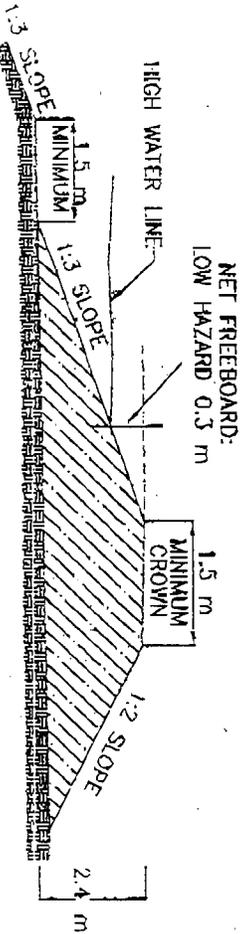
Scale 1:1320



POND TYPICAL "A"  
(USE FOR PONDS #1-3 NEW  
CONSTRUCTION AND POND MAINTENANCE)

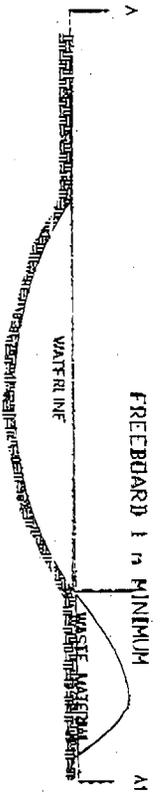


DAM CROSS SECTION



SITE MUST BE SCARIFIED BEFORE EXCAVATION OR FILL. EACH LAYER OF FILL MUST BE COMPACTED BEFORE ANOTHER LAYER IS ADDED. SIDE SLOPES WILL BE A MINIMUM OF 1:3 AND ONE SLOPE 1:4.

CROSS SECTION A--A1



FOUNDATION SHOULD BE PLOWED OR SCARIFIED BEFORE FILL IS PLACED. REMOVE UNSTABLE MATERIAL

**PUBLIC NOTICE**  
**Oregon Department of Environmental Quality**  
**Water Quality 401 Certification**

Corps of Engineers Action ID Number: 200400394  
Oregon Division of State Lands Number: N/A

Notice Issued: August 4, 2004  
Written Comments Due: August 19, 2004

**WHO IS THE APPLICANT:** US Department of Agriculture, US Forest Service, La Grande Ranger District, 3502 Highway 30, La Grande, Oregon 97850

**LOCATION OF CERTIFICATION ACTIVITY:** See attached U.S. Army Corps of Engineers public notice

**WHAT IS PROPOSED:** See attached U.S. Army Corps of Engineers public notice on the proposed project

**NEED FOR CERTIFICATION:** Section 401 of the Federal Clean Water Act requires applicants for Federal permits or licenses to provide the Federal agency a water quality certification from the State of Oregon if the proposed activity may result in a discharge to surface waters.

**DESCRIPTION OF DISCHARGES:** See attached U.S. Army Corps of Engineers public notice on the proposed project

**WHERE TO FIND DOCUMENTS:** Documents and related material are available for examination and copying at Oregon Department of Environmental Quality, Water Quality Division, 811 S.W. 6th Avenue, Portland, Oregon 97204

While not required, scheduling an appointment will ensure documents are readily accessible during your visit. To schedule an appointment please call Alice Kavajecz at (503) 229-6962.

Any questions on the proposed certification may be addressed to the 401 Program Coordinator at (503) 229-5845.

**PUBLIC PARTICIPATION:**

**Public Hearing:** Oregon Administrative Rule (OAR) 340-48-0020 (6) states that "The Director shall provide an opportunity for the applicant, any affected state, or any interested agency, person, or group of persons to request or petition for a public hearing with respect to certification applications. If the Director determines that new information may be produced thereby, a public hearing will be held prior to the Director's final determination. Instances of doubt shall be resolved in favor of holding the hearing. There shall be public notice of such a hearing."

**Written comments:**

Written comments on the proposed certification must be received at the Oregon Department of Environmental Quality by 5 p.m. on (full date). Written comments should be mailed to Oregon Department of Environmental Quality, Attn: 401 Program Coordinator, 811 S.W. 6th Avenue, Portland, Oregon 97204. *People wishing to send written comments via e-mail should be aware that if there is a delay between servers or if a server is not functioning properly, e-mails may not be received prior to the close of the public comment period.* People wishing to send comments via e-mail should send them in Microsoft Word (through version 7.0), WordPerfect (through version 6.x) or plain text format to [401publiccomments@deq.state.or.us](mailto:401publiccomments@deq.state.or.us). Otherwise, due to conversion difficulties, DEQ recommends that comments be sent in hard copy.

**WHAT HAPPENS NEXT:** DEQ will review and consider all comments received during the public comment period. Following this review, the permit may be issued as proposed, modified, or denied. You will be notified of DEQ's final decision if you present either oral or written comments during the comment period. Otherwise, if you wish to receive notification, please call or write DEQ at the above address.

**ACCESSIBILITY INFORMATION:** This publication is available in alternate format (e.g. large print, Braille) upon request. Please contact DEQ Office of Communications and Outreach at (503) 229-5317 or toll free within Oregon at 1-800-452-4011 to request an alternate format. People with a hearing impairment can receive help by calling DEQ's TTY at (503) 229-6993.