



Oregon

Tina Kotek, Governor

Water Resources Department

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Water Right Application Initial Review

February 3, 2023

OREGON DEPARTMENT OF FISH AND WILDLIFE

ATTN: CHANDRA FERRARI

4034 FAIRVIEW INDUSTRIAL DR SE

SALEM OR 97302-1142

Reference: Application IS-89313

This document is to inform you of the preliminary analysis of the instream water right application and to describe your options. In determining whether an application may be approved, the Water Resources Department (Department) must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information supplied, the Department has made the following preliminary determinations:

Preliminary Determinations (Oregon Administrative Rule (OAR) 690-077-0029)

1. The application proposes the instream protection of water in Drake Creek, from river mile 1.1 to mouth river mile 0.0, tributary to Deep Creek, for the following public use: conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat (ORS 537.332(5)). The requested rate in cubic feet per second (CFS) by month is shown below.

Amount of water requested for instream use (CFS):

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
6.0	8.0	8.0	12.0	12.0	8.0	4.0	4.0	4.0	4.0	4.0	4.0

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The proposed reach for this instream water right application is in the Warner Lakes Subbasin of the Goose and Summer Lakes Basin.
4. Instream use is not a classified use for this reach under the Goose and Summer Lakes Basin Program (OAR 690-513-0040(2)(a)). However, protecting instream flows for Deep Creek, a tributary, is a stated objective within OAR 690-513-0040(1)(a). Additionally, OAR 690-077-0015(9) states that instream use shall be considered a classified use unless specifically withdrawn. The waters of Drake Creek and tributaries are not withdrawn under ORS 538; therefore, instream use is allowable.

5. Water available for instream use is limited to the estimated average natural flow. (OAR 690-077-0015(4))
6. An assessment of water availability at 50% exceedance probability, and the estimated average natural flow, for the proposed use was completed using the Department's Water Availability Reporting System. A copy of this assessment is in the application file. This review was completed consistent with OAR 690-077-0029(1)(b). The assessment established, during the period of use requested, the estimated average natural flow shown below.

Estimated Average Natural Flow (CFS):

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
6.69	8.67	12.8	13.2	12.4	10.9	7.63	7.05	7.05	6.96	6.99	6.98

7. The proposed use is not located within or above any state scenic waterway.

Summary of Preliminary Determinations

The instream protection of water in Drake Creek, from river mile 1.1 to mouth river mile 0.0, tributary to Deep Creek, for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat is allowable.

Allowable for instream use (CFS):

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
6.0	8.0	8.0	12.0	12.0	8.0	4.0	4.0	4.0	4.0	4.0	4.0

Public Comment & Further Review:

Public interest issues and/or public comments will be addressed as the Department prepares a Proposed Final Order. If significant public interest issues are identified, they could have an impact on the eventual outcome of the application.

At this time, you must decide whether to proceed or to withdraw the application.

- **To Proceed** - If you choose to proceed with the application you do not have to notify the Department. The application will be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a Proposed Final Order.
- **To Withdraw** - You may withdraw the application. You must notify the Department **in writing** by sending a hard copy letter or an email to the assigned caseworker. The Department will not further process the application until the Stop Processing Deadline Date shown in the attached Application Fact Sheet. This 14-day window allows the applicant time to withdraw the application before the Department takes further action. The applicant still has the opportunity to request to withdraw the application after this deadline.

If a certificate is issued, it will likely include the following conditions:

1. The water right holder shall measure and report the instream flow along the reach of the stream or river described in the certificate, as may be required by the standards for instream water right reporting of the Water Resources Commission.

For Further Information:

Feel free to contact me at Adam.M.Frederick@water.oregon.gov or 971-707-8400 if you have any questions regarding the contents of this letter or the application. Please include the application number in all correspondence. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0900. When corresponding by mail, please use this address: Adam Frederick, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Adam Frederick

Adam Frederick
Water Right Application Specialist
Oregon Water Resources Department

Enclosure: Application Fact Sheet

APPLICATION FACT SHEET

Application File Number: IS-89313

Applicant: OREGON DEPARTMENT OF FISH AND WILDLIFE

County: LAKE

Watermaster: MATT ANDERSON, 12, SCR

Priority Date: DECEMBER 22, 2022

Source: DRAKE CREEK, RIVER MILE 1.1 TO MOUTH RIVER MILE 0.0, TRIBUTARY TO DEEP CREEK

Purpose or Use: INSTREAM USE

Period of Use and Rate (CFS):

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
6.0	8.0	8.0	12.0	12.0	8.0	4.0	4.0	4.0	4.0	4.0	4.0

Basin Name & Number: GOOSE AND SUMMER LAKES, #13

WAB: 31300715

PUBLIC NOTICE DATE: February 7, 2023

14 DAY STOP PROCESSING DEADLINE DATE: February 17, 2023

30 DAY COMMENT DEADLINE DATE: March 9, 2023