



# Application for Limited Water Use License RECEIVED

JUN 22 2023

License No.: LL-1956

### Applicant Information

NAME <u>Hamilton Construction Co.</u>			PHONE (HM)
PHONE (WK)	CELL <u>(541) 746-2426</u>	FAX	
ADDRESS <u>PO Box 659</u>			
CITY <u>Springfield</u>	STATE <u>OR</u>	ZIP <u>97477</u>	E-MAIL* <u>Jengdahl@hamil.com</u>

### Agent Information

NAME <u>Josh Engdahl - Project Engineer</u>		PHONE <u>541-554-0483</u>	FAX
ADDRESS <u>402 SE Denver St</u>		CELL	
CITY <u>Albany</u>	STATE <u>OR</u>	ZIP <u>97321</u>	E-MAIL* <u>Jengdahl@hamil.com</u>

I (We) make application for a Limited License to use or store the following described surface waters or groundwater – not otherwise exempt, or to use stored water of for a use of a short-term or fixed-duration:

1. SOURCE(S) OF WATER: Willamette River tributary of Columbia River
2. AMOUNT OF WATER to be diverted;  
Maximum and instantaneous rate (cubic feet or gallons per minute): 8 gallons/minute  
Total volume (gallons or acre-feet): 500 gallons/day. If water is to be used from more than one source, give the quantity from each: \_\_\_\_\_
3. INTENDED USE(S) OF WATER: (check all that apply)

- Road construction or maintenance
- General construction
- Forestland and rangeland management; or
- Other: Water to be used for dust control and fire prevention

4. DESCRIPTION OF PROPOSED PROJECT: Include a description of the place of use as shown on the accompanying site map, the method of water diversion, the type of equipment to be used (including pump horsepower, if applicable), length and dimensions of supply ditches and pipelines:

we are replacing the Van Buren Bridge in Coluallis Oregon. Between the two bridges (Vanburen & Harrison) we will use a 2 inch hose with a fish screen attached to pump the water to our 500 gallon tank. we will use an electric pump.

5. PROJECT SCHEDULE: (List day, month, and year)

Date water use will begin: Upon completion of Permit July 2023  
Date water use will be completed: 1-7-2027

Months of the year water would be diverted and used: April - November (won't need water during wet months)

If for other than irrigation from stored water, how and where will water be discharged after use:

Water is used for dust control and fire prevention. The ground will absorb the water.

Joshua Engdahl  
Applicant Signature

Josh Engdahl - Project Engineer 6/13/2023  
Print Name and title if applicable Date

**PLEASE READ CAREFULLY**

**NOTE:** A completed water availability statement from the local watermaster, Land Use Information Form completed by the local Planning Department, fees and site map meeting the requirements of OAR 690-340-030 must accompany this request. The fee for this request is \$280 for the first point of diversion plus \$30 for each additional point of diversion. Please review the Department's fee schedule to view fees required to request a limited license for Aquifer Storage and Recovery testing purposes or for Artificial Groundwater Recharge testing purposes.

**Failure to provide any of the required information will result in return of your application.** The license, if granted, will not be issued or replaced by a new license for a period of more than five consecutive years. The license, if granted, will be subordinate to all other authorized uses that rely upon the same source, or water affected by the source, and may be revoked at any time it is determined the use causes injury to any other water right or minimum perennial streamflow.

If water source is well, well logs or adequate information for the Department to determine aquifer, well depth, well seal and open interval, etc. are required. The licensee shall indicate the intended aquifer. If for multiple wells, each map location shall be clearly tied to a well log.

If a limited license is approved, the licensee shall give notice to the Department (Watermaster) at least 15 days in advance of using the water under the Limited License and shall maintain a record of use. The record of use shall include, but need not be limited to, an estimate of the amount of water used, the period of use and the categories of beneficial use to which the water is applied. During the period of the Limited License, the record of use shall be available for review by the Department upon request.

*\*A summary of review criteria and procedures that are generally applicable to these applications is available at: <http://www.oregon.gov/owrd/pages/pubs/forms.aspx>*

**Mapping Requirements (OAR 690-340-0030):**

(1) A request for a limited license shall be submitted on a form provided by the Water Resources Department, and shall be accompanied by the following:

- a. A site map of reproducible quality, drawn to a standard, even scale of not less than 2 inches = 1 mile, showing:
  - i. The locations of all proposed points of diversion referenced by coordinates or by bearing and distance to the nearest established or projected public land survey corner;
  - ii. The general course of the source for the proposed use, if applicable;
  - iii. Other topographical features such as roads, streams, railroads, etc., which may be helpful in locating the diversion points in the field.

**REMARKS:**

For WRD Use Only
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**This page to be completed by the local Watermaster.**

**WATER AVAILABILITY STATEMENT**

Name of Applicant: Hamilton Construction Limited License Number: LL-1956

1. To your knowledge, has the stream or basin that is the source for this application ever been regulated for prior rights?

Yes  No

If yes, please explain:

2. Based on your observations, would there be water available in the quantity and at the times needed to supply the use proposed by this application?

Yes  No

3. Do you observe this stream system during regular fieldwork?

Yes  No

If yes, what are your observations for the stream?

*Flow is sufficient to meet demand.*

4. If the source is a well and if WRD were to determine that there is the potential for substantial interference with nearby surface water sources, would there still be ground water and surface water available during the time requested and in the amount requested without injury to existing water rights?

Yes  No  N/A

What would you recommend for conditions on a limited license that may be issued approving this application?

*Totalizing flow meter*

5. Any other recommendations you would like to make?

Signature

*[Handwritten Signature]*

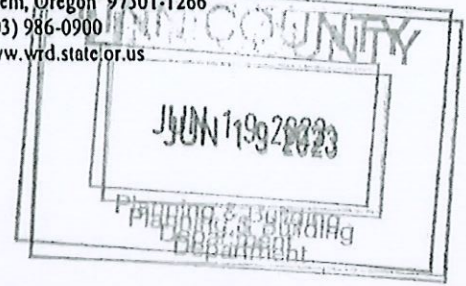
WM District #: 16

Date: 6/13/2023

# Land Use Information Form



Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900  
www.wrd.state.or.us



## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

**This form is NOT required if:**

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply:
  - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
  - b) The application involves a change in place of use only;
  - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
  - d) The application involves irrigation water uses only.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

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# Land Use Information Form



Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1266  
 (503) 986-0900  
 www.wrd.state.or.us

RECEIVED  
 JUN 22 2023  
 OWRD

Applicant: Josh First Engdahl Last

Mailing Address: PO Box 659

Springfield City OR State 97477 Zip Daytime Phone: 541-554-0483

## A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:	Proposed Land Use:
11S	05W	35		200		Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> <input checked="" type="checkbox"/> Used	
11S	05W	35		300		<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
11S	05W	35		400		<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
11S	05W	35		500		<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	

*No tax lot where water is diverted*

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Linn County

## B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water   
  Water Right Transfer   
  Permit Amendment or Ground Water Registration Modification  
 Limited Water Use License   
  Allocation of Conserved Water   
  Exchange of Water

Source of water:  Reservoir/Pond   
 Ground Water   
 Surface Water (name) Willamette River

Estimated quantity of water needed: 8  cubic feet per second   
 gallons per minute   
 acre-feet

Intended use of water:  Irrigation   
 Commercial   
 Industrial   
 Domestic for \_\_\_\_\_ household(s)  
 Municipal   
 Quasi-Municipal   
 Instream   
 Other Dust Control / Fire prevention

Briefly describe:

We have active traffic near our jobsite so we will be periodically using the water for dust control. We are also welding and doing steel work so water will be used for fire prevention. 500 gallons/day

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

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See bottom of Page 3. →

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# For Local Government Use Only

LINN COUNTY  
JUN 19 2023  
Planning & Building

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

### Please check the appropriate box below and provide the requested information

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): LCC 928.310(B)(9)
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) If approvals have been obtained but all appeal periods have not ended, check "Being pursued."

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
Willamette Greenway Review	LCC 931.660	<input checked="" type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

Approval to remove the existing bridge, construction of the new bridge, reconstruction of a maintenance access road, etc., is subject to the conditions of approval per PLN-2021-0017 (attached)

Name: Kate Bentz Title: Assistant Planner  
 Signature: [Signature] Phone: 541-967-3816 Date: 6/19/22  
 Government Entity: Linn County

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

### Receipt for Request for Land Use Information

Applicant name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

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# LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Room 114, Linn County Courthouse  
PO Box 100, Albany, Oregon 97321  
Phone 541-967-3816 Fax 541-926-2060  
www.co.linn.or.us

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## NOTICE OF DECISION WILLAMETTE RIVER GREENWAY COMPATABILITY REVIEW

August 25, 2021

Oregon Department of Transportation  
Attn: Brian Morey  
3700 SW Philomath Blvd  
Corvallis, OR 97333

RE: PLN-2021-00117; a conditional use permit for development proposed within the Willamette River Greenway. All work is being completed on property zoned Exclusive Farm Use (EFU) (T11S, R05W, Section 35DD, Tax lots 200, 300, 400, and 500).

Dear Mr. Morey:

The Linn County Planning Director (Director) completed review of your conditional use permit application for a greenway review on August 25, 2021. The Director finds that your application complies with the specified decision criteria in Section 931.660(B) of the Linn County Land Development Code (Code). Your application is **approved**, subject to the following permit condition and Code requirements:

### CONDITION:

A Willamette River Greenway conditional use permit is approved to build a new two-lane eastbound bridge with a multi-use path to replace the existing one-lane Van Buren Bridge within the Willamette River Greenway. The permit approval includes removal of the existing bridge, construction of the new bridge, reconstruction of a maintenance access road, construction of a temporary traffic detour bridge and work bridge, relocation of a portion of the existing Suzanne Wilkins Pathway, and clearing and planting of trees and vegetation.

### REQUIREMENTS:

1. Development of all properties in the WRGO must comply with the development standards set forth in LCC Chapter 934 (Development Standards Code) and specifically to LCC 934.850, and also to any specific standards applicable to the underlying zoning district.
2. Construction within an area of special flood hazard must comply with the Linn County Floodplain Management Code Chapter 870. For more information, please contact the Linn County Floodplain Administrator at 541-967-3816.

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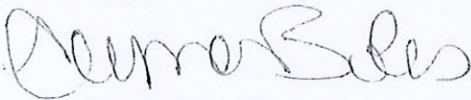
JUN 22 2023

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This decision is effective unless an appeal to the Linn County Planning Commission is filed with the Department before 5:00 p.m., September 8, 2021. Appeals will be accepted only when based upon identified inadequacies, omissions, or errors in the decision's findings and conclusions. A \$250 filing fee must accompany an appeal.

Your proposal may be initiated up to two years after the date of decision. Please note that a 14-day period exists during which this decision may be appealed. Permits may be obtained only after the appeal period expires on September 8, 2021 **and after the approval conditions and requirements have been met.** An appeal prevents initiation of the proposal; you will be notified of an appeal filed by another party. Please contact me in our Department at (541) 967-3816, ext. 2360 or [aboles@co.linn.or.us](mailto:aboles@co.linn.or.us) if questions arise or if we may be of assistance.

Sincerely,



Alyssa Boles  
Planning Director

C: Linn County Assessor's Office  
Linn County GIS  
Linn County Road Department  
Oregon Department of State Lands  
City of Corvallis

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PLN-2021-00117; Oregon Department of Transportation



PLN-2021-00117  
**DECISION CRITERIA, FINDINGS AND CONCLUSION**

**I. APPLICATION**

Oregon Department of Transportation (Applicant) submitted a Willamette River Greenway compatibility review application on the subject tax lots. The properties are zoned Exclusive Farm Use (EFU) and are identified on Linn County Assessor maps as T11S, R05W, Section 35DD, Tax lots 200, 300, 400, and 500.

Applicant proposes to build a new two-lane eastbound bridge with a multi-use path to replace the existing one-lane Van Buren Bridge within the Willamette River Greenway. Proposed work includes removal of the existing bridge, construction of the new bridge, reconstruction of a maintenance access road, construction of a temporary traffic detour bridge and work bridge, relocation of a portion of the existing Suzanne Wilkins Pathway, and clearing and planting of trees and vegetation.

**II. DECISION CRITERIA**

Section 931.660(B) of the Linn County Land Development Code contains the applicable decision criteria.

**III. FINDINGS**

**LCC Section 931.660(B) - WRGO; decision criteria for conditional uses**  
**(B) Decision criteria.**

**(1) The proposal is consistent with the protection of land in the Exclusive Farm Use zoning district;**

The application states: "*Pursuant to LCC 928.310(B)(9)(c), the temporary detour bridge is allowed outright since it will be removed and restored to original condition once the new bridge is completed and open. The new bridge and work bridge would be permissible as a...transportation improvement allowed by Oregon Administrative Rule (OAR) 660-012-0065(3)(o).*"

*Land use within the project area, zoned EFU, except for a narrow band on the far eastern end of the project that is zoned Limited Industrial (LI), will not change as a result of the project. The main component of the project is the replacement of an existing bridge on in early the same alignment. Most of the permanent impacts will be located within ODOT right-of-way (ROW). The portion outside the ROW is owned by Corvallis Parks and Recreation. No existing agricultural land will be impacted by the project. All areas of temporary impact will be restored following project construction."*

OAR 660-012-0065(3)(o) states that transportation facilities, services and improvements that serve local travel needs are consistent with Statewide Planning Goal 3. OAR specifies that the travel capacity and performance standards of facilities and improvements serving local travel needs are limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access.

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Chapter 907 of the Linn County *Comprehensive Plan* (Transportation Plan) implements transportation improvements on rural lands as described in the Transportation Planning Rules in OAR. LCC 907.320(C) contains the list of transportation projects allowed outright and permitted through a Type IIA land use review. The proposed work falls under the list of projects allowed outright [LCC 907.320(C)(1)]. These uses are implemented in the EFU zone under LCC 928.310(B)(9). The Linn County *Comprehensive Plan* and Land Development Code have established specific development limitations in the EFU zoning district. As a result, the uses allowed and permitted in the EFU zone are not expected to have a significant impact on the rural transportation system.

Because the bridge replacement is described within the uses allowed in the EFU zoning district under LCC 928.310(B)(9); and because OAR 660-012-0065(3) indicates that the improvement as implemented is consistent with Goal 3, the use is considered by the *Comprehensive Plan* and OAR to not conflict with the protection of land in the Exclusive Farm Use zone. Based on the provisions in OAR, policies in the *Comprehensive Plan*, and the implementation of development limitations in the EFU zoning district, the Director finds the proposed improvements are consistent with the protection of land in the Exclusive Farm Use zoning district. The Director finds this criterion is met.

**(2) The proposal is consistent with the protection of sensitive fish and wildlife habitat areas identified by the Oregon Department of Fish and Wildlife. Consideration of habitats shall include, but not be limited to fish spawning sites, fresh water marshes, and great blue heron, osprey, and eagle nest trees and trees adjacent to the nest trees.**

The application states: "The County's mapping application shows the project area as non-sensitive habitat. However, the stretch of the Willamette River within the project area is designated critical habitat for the Upper Willamette Chinook salmon (Endangered Species Act-listed threatened species), and also provides habitat for other native and non-native fish species. The Willamette River is designated as essential fish habitat (EFH) by the National Marine Fisheries Service (NMFS) for Chinook and Coho salmon, and Essential Salmonid Habitat (RSH) by the Oregon Department of State Lands.

The project will result in fewer in-water piers; the proposed bridge has two in-water piers while the existing bridge has three. The new piers are also smaller than existing; therefore, the project will result in a less-obstructed channel. All in-water work (IWW) will occur during the Oregon Department of Fish and Wildlife (ODFW)-prescribed IWW period (June 1-October 15). It is anticipated that it will take three IWW periods to complete the project.

Fish passages will be maintained throughout the entire construction period. All work area isolation and fish salvage activities will be conducted consistent with the NMFS-Federal Highway Administration (FHWA) Federal Aid Highway Program (FAHP) biological opinion's conservation and general construction measures and ODFW requirements.

There is an osprey nest located on a nest platform on the power pole on the northeast side of the Harrison Street Bridge. There are trees within the project area that are in the vicinity of, but not adjacent to, the nest; project-area trees are separated from the nest by the Harrison Street Bridge. Although the County does not currently map the project as sensitive bird habitat, the project is within 1/4-mile of the osprey nest and may be considered sensitive bird habitat according to LCC 931.520(C)(2). The closest work will be the installation of a pipe under the Harrison Street Bridge to convey stormwater for water

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quality treatment. Work associated with the pathway will occur within approximately 200 feet of the nest. All temporarily disturbed areas will be restored and planted with trees and shrubs or seeded with native seed mix after project construction is complete. Trees removed from the riparian area will be replaced at a 2:1 ratio. The project will not directly impact the nest or the power pole that the nest rests on."

The Van Buren Bridge is currently located within a mapped sensitive fish habitat and riparian habitat area. The County sensitive bird habitat maps do not indicate any protected bird habitats; however the applicant indicates the presences of an osprey nest within a quarter mile of the project.

LCC 903.550(B)(1) notes that the County agency involvement program includes federal and state agencies involved in fish and wildlife management. Policies in the Natural Resource element of the *Comprehensive Plan* stress the need for compliance with federal and state agency requirements. As stated above, Applicant is required to comply with the ODFW-prescribed IWW period as well as compliance with the NMFS- FHWA FAHP biological opinion's conservation and general construction measures and ODFW requirements as they relate to protection of sensitive fish and wildlife habitat. The Director finds the applicant adequately addresses this criterion and that compliance with state and federal fish and wildlife habitat protection measures is consistent with this criterion. The Director finds this criterion is met.

**(3) The proposal is consistent with the preservation of significant natural and scenic areas, viewpoints and vistas;**

The application states, "The project will occur within the Orleans Natural Area. There is dense riparian vegetation through the project area that obscures the view of the river. Although it is possible to walk to the riverbank, there are no trails or cleared areas intended to provide pedestrians with views. Forested areas and the relatively flat landscape to the east and high riverbank to the west block views of the foothills and mountain ranges in the area. The Orleans Natural Area is not one of the 12 significant natural area sites on the County's inventory. No significant viewpoints or vistas are present.

Impacts to the natural area will be minimized to the extent possible, and most impacts will occur within already disturbed areas. The new bridge will be located along almost the same alignment as the existing bridge but will be wider and shifted slightly to the north. The existing paved pathway within the park will be realigned away from the river to connect to the multi-use pathway of the new bridge. The new pathway will be slightly wider but significantly shorter than the existing path and will be associated with the roadway fill prism. A reconstructed access road for the Orleans Natural Area will be constructed, overlapping in places within the existing pathway/access road. Where the existing pathway is removed and does not overlap with the reconstructed access road, the area will be restored. All temporarily disturbed areas will be restored. Within their parcel, restoration efforts will be coordinated with Corvallis Parks and Recreation Department.

It is anticipated that 25 native trees will be removed from the WRG to accommodate project elements such as the temporary construction access bridge and road and the temporary detour bridge. Trees within the riparian area will likely be left in place as stumps or snags when possible. Within the riparian area, trees will be replaced at a 2:1 ratio.

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Outside of this area, it is anticipated that trees will be replaced at a 1:1 ratio, at a minimum." DWRD

LCC Chapter 903 contains the applicable *Plan* provisions regarding significant natural and scenic areas, viewpoints and vistas. LCC 903.300 through 903.427 indicates there are no identified significant natural and scenic areas, viewpoints and vistas in the subject area. LCC 903.427(B)(1) states that the Agricultural Resource plan designation shall be used on the Linn County *Comprehensive Plan* to conserve open space, protect the scenic resources. The subject area has a *Plan* designation of Agricultural Resource, consistent with this policy.

The Director finds the applicant adequately addresses this criterion and that this criterion is met.

**(4) The proposal is consistent with the enhancement and protection of the natural vegetative fringe to the maximum extent practicable;**

The application states, "The project will result in temporary and permanent impacts to the natural vegetative fringe along the river. Permanent impacts, including tree removals, will result from construction of the new bridge. Construction of the temporary access bridge and temporary detour bridge will also require tree removals. All temporary impacted areas will be restored following project construction. Within the vegetative fringe, proposed restoration includes tree and shrub plantings. Trees will be replaced at a 2:1 ratio or greater within the riparian area. Existing native vegetation will be protected to the maximum extent practicable, invasive species will be removed, and shrub plantings will be installed, as appropriate, around existing plants. See Attachment 1 of the application, Figure 6 and sheets FA03-FA07 and FB02-FB04 for the proposed tree removals and restoration plan."

The proposed vegetation restoration plan submitted with the application indicates planting after construction will be at an amount equal to or greater than the existing vegetative area surrounding the bridge. The Director finds the applicant adequately addresses this criterion and that this criterion is met.

**(5) The protection, preservation, restoration and enhancement of areas having ecological, scientific, historical or archaeological significance are not significantly impaired by the proposal;**

The application states, "The project will be reviewed by ODOT on behalf of the FHWA for compliance with Section 106 of the Natural Historic Preservation Act Section 4(f) of the US Department of Transportation Act of 1966. This will include consultation with the State Historic Preservation Office (SHPO) regarding all historic resources in the project area. A Memorandum of Agreement will be required to mitigate any adverse effects to historic and/or archeological resources. Additionally, an Archeological Monitoring Plan and Inadvertent Discovery Plan has been prepared and it is anticipated that all ground-disturbing activities will be monitored by a qualified archeologist. Therefore, it is not anticipated that the project will significantly impair the significance of these resources. Documentation of the ODOT Section 106 review will be provided to the County upon review completion."

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The subject property is identified as containing the Orleans Townsite, which is listed in the Linn County Registry of Historic Places (HR-1-87/88). Policies in the *Plan* and procedures detailed in the Land Development Code require a review before the Linn County Historic Resource Commission (HRC) or alteration of a historic resources; however, pursuant to LCC 932.925(B)(2), the project does not require an HRC review or certificate for projects when review of the proposed alteration is required by an agency of the state or federal government. As noted above, the project will be reviewed by ODOT on behalf of the FHWA for compliance with Section 106 of the National Historic Preservation Act Section 4(f) of the US Department of Transportation Act of 1966 and includes consultation with SHPO regarding all historic resources in the project area.

The *Comprehensive Plan* indicates that the subject property does not contain any identified areas having ecological or scientific significance.

The Linn County HRC reviewed the initial Archaeology Report on March 19, 2020 and did not have any concerns regarding the proposed project. The Director finds that compliance with state and federal historic preservation requirements is consistent with this criterion. The Director finds the application adequately addresses this criterion and that the protection, preservation, restoration and enhancement of areas having ecological, scientific, historical or archaeological significance are not significantly impaired by the proposal. The Director finds this criterion is met.

**(6) The quality of the air, water and land resources in and adjacent to the Greenway shall not be significantly impaired by the proposal;**

The application states, "*The project must comply with Clean Water Act (CWA) Section 401 programmatic certification for post-construction stormwater management. The project will seek U.S. Army Corps of Engineers (USACE) authorization under a nationwide permit (NWP) and will be required to monitor for turbidity using a turbidity meter to reduce the risk of sedimentation in the river during construction. Pursuant to CWA Section 402, the Oregon Department of Environmental Quality (DEQ) issues National Pollutant Discharge Elimination System (NPDES) permits for stormwater discharges to surface waters from construction sites with greater than one acre of ground disturbance. The project will be covered under ODOT's existing Region 2 NPDES 1200-CA Stormwater Construction General Permit.*

*Runoff will be collected and conveyed to two biofiltration swales, and then discharged to the Willamette River. One will be located between the new bridge and the Harrison Street Bridge approach, and the second will be located east of the bridge, south of OR34; both are located outside the WRG."*

Pursuant to LCC 903.120(B), the maintenance of resource quality in the future is directly related to land use. Impacts to air, land, and water are generated by every land use activity and it is the cumulative effect of these impacts which can create environmental problems. Linn County acts in cooperation with the Oregon DEQ to make sure land use activities are consistent with state and federal environmental regulations. As stated above, proposed work must comply with federal regulations under a NWP with USACE, as well as state regulations under a NPDES 1200-CA permit with DEQ. The Director finds that compliance with state and federal requirements related to water quality is consistent with this criterion. Based on the scope of proposed work as described in the application, the Director finds the proposed project should have minimal to no impact on air quality in and

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adjacent to the Greenway. The Director finds the application adequately addresses this criterion and that the quality of the air, water and land resources in and adjacent to the Greenway shall not be significantly impaired by the proposal. The Director finds this criterion is met.

**(7) The proposal is consistent with the retention, in their natural state, of identified areas of annual flooding, flood plains and wetlands to the maximum extent practicable;**

*The application states, "No wetlands were identified within the project area. The project will result in impacts to the channel and floodplain of the Willamette River, resulting in a net reduction of fill within both the channel (above the channel bottom) and the floodplain. A hydraulic analysis has been completed and the proposed bridge will be designed to result in no rise in the base flood elevation within the floodplain of the Willamette River. The project will comply with the requirements of Chapter 870, the Linn County Floodplain Management Code. A Floodplain Development Permit will be obtained prior to project construction. The project will also obtain a Section 404 permit from the USACE and a removal-fill permit from the DSL prior to construction."*

The proposed project area is located entirely within the identified flood hazard area according to the Federal Emergency Management Agency (FEMA) Flood Insurance Study for Linn County, Oregon and Incorporated Areas dated September 29, 2010. A floodplain development permit will be required to be submitted to the Department and approved prior to any site development. The hydraulic analysis will be reviewed as part of the floodplain development permit to ensure the project will not result in any increase in flood levels during the occurrence of the base flood discharge and that the net effect of fill and excavation operations (onsite) constitutes no positive change in fill volume, the proposed fill or excavation will not change the direction or velocity of flood water flow, and the proposed fill or excavation will not cause a compounding of flood hazards. As a requirement of approval, Applicant must obtain a floodplain development permit for any work associated with the project prior to site development.

Oregon DSL was notified of the proposed work and submitted comments stating that a state permit will be required for any amount of disturbance, assuming access, removal, pilings for the bridge, etc. As indicated above, Applicant stated that a Section 404 permit from the USACE and a removal-fill permit from the DSL will be obtained prior to construction.

The Director finds that compliance with the requirements in LCC Chapter 870, along with compliance with state and federal requirements is consistent with this criterion. The Director finds this criterion is met.

**(8) The proposal shall not have a significant effect upon potentially erodible areas;**

*The application states, "Soils mapped in the project area have only a "slight" erosion hazard according to the National Resources Conservation Service. Some erosion was observed on the streambank, as evidenced by exposed roots and undercut banks. The hydraulic analysis did not find revetment along the banks to be necessary and none is proposed. All temporarily disturbed areas along the banks will be restored and tree removals within the riparian area will be replaced at a minimum of a 2:1 replacement ratio."*

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*The project is not expected to permanently increase erosion within the project area. Temporary erosion control measures will be installed prior to project construction and will be left in place until permanent erosion control measures (seeding and planting) have established. Standard erosion control Best Management Practices (BMP) expected to be used on this project includes bio filter bag/sandbag sediment barriers, sediment fencing, existing gravel/paved roadways and aggregate construction entrances, and biodegradable erosion control matting and permanent seeding and planting along the banks. The contractor will be required to install sediment barriers downslope of all grading activities, and sediment fences will be placed at the toe of fill slopes in areas where sediment-laden water has a potential for entering the river. Finally, during construction, the contractor will monitor turbidity and inspect all erosion controls weekly, or more often as necessary, to confirm that erosion controls are working adequately to meet treatment requirements. Following construction, temporary erosion control measures will remain in place until the site is stabilized by restoration planting."*

LCC 903.160(E) indicates that Linn County shall cooperate with state and federal agencies to control erosion and sedimentation in connection with land development plans. The standard erosion control BMPs to be implemented by the applicant are sufficient to demonstrate the project will not have a significant effect upon potentially erodible areas. The Director finds the applicant adequately addresses this criterion and that this criterion is met.

**(9) The proposal is compatible with existing uses in the surrounding area;**

Surrounding properties are zoned Exclusive Farm Use (EFU), with a portion of the subject property zoned Limited Industrial (LI). Existing uses in the surrounding area include open space, a golf course, and transportation improvements, notably OR34 and the Harrison Street and Van Buren bridges. The westbound portion of OR34 and the Harrison Street Bridge are adjacent to the proposed project.

As the Director found in LCC 931.660(B)(1), because the bridge replacement is described within the uses allowed in the EFU zoning district under LCC 928.310(B)(9); and because OAR 660-012-0065(3) indicates that the improvement as implemented is consistent with Goal 3, the use is considered by the *Comprehensive Plan* and OAR to not conflict with the protection of land in the Exclusive Farm Use zone. Based on the provisions in OAR, policies in the *Comprehensive Plan*, and the implementation of development limitations in the EFU zoning district, the Director also found that the proposed improvements are consistent with the protection of land in the Exclusive Farm Use zoning district.

The same transportation improvement described in LCC 928.310(B)(9) are allowed outright in the LI zoning district [LCC 929.320(B)(8)]. However, the Director notes that the LI zoned portion of the property is located outside the WRG and all worked proposed as part of the project is located within the EFU zoned portion of the property.

Notice was sent to property owners within 1000 feet of the subject properties, as well as the City of Corvallis and the Corvallis Rural Fire Protection District. No comments were received from surrounding property owners or notified agencies indicating any impacts to existing uses as a result of the proposed bridge replacement.

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The application proposes to build a new two-lane eastbound bridge with a multi-use path to replace the existing one-lane Van Buren Bridge. The proposed development will function, both temporarily and upon completion, exactly the same as the existing use. The Director concludes the proposal complies with criterion because the proposed development will result in the same use. The Director finds this criterion is met.

**(10) The proposal has been directed away from the Willamette River to the greatest extent possible;**

*The application states, "The project is a bridge replacement, a water-dependent use, and permanent impacts below the ordinary high water (OHW) line of the river are unavoidable. These impacts will be minimized to the maximum extent practicable while still meeting the project purpose and constraints. The proposed bridge contains fewer in-water piers than the existing bridge and will result in less fill below OHW and above the ground surface than currently exists. Aside from bridge piers and plantings, all project-related development will be located over 100 feet from the OHW line of the river (on the County side of the river)."*

As indicated by the Applicant, the type of work and the fact the work is a water-dependent use proposed makes impacts inevitable. The Director reasons that with the decrease in in-water piers and because the new bridge will be located over 100 feet above the OHW line, impacts within the WRG should decrease. The project maps submitted with the application indicates that all other project-related development meets the Willamette River Greenway setback of 100 feet from the OHW line. The Director finds the applicant adequately addresses this criterion and that this criterion is met.

**(11) The maximum possible landscaping area, open space and vegetation will be provided between the Willamette River and the proposal.**

*The application states, "Vegetation within the project area includes trees and shrubs in the riparian area, a forested area south of the existing Van Buren Bridge, an area dominated by non-native herbaceous vegetation between the existing bridge and the Harrison Street Bridge, and a mix of native and non-native vegetation throughout the remainder of the Orleans Natural Area. Vegetation present in the riparian area includes native trees such as Oregon ash (*Fraxinus latifolia*) and bigleaf maple (*Acer macrophyllum*), and an understory of native and non-native vegetation, including Himalayan blackberry (*Rubus armeniacus*). Outside of the riparian area, the project area contains a mix of native and non-native trees and maintained (mowed) and unmaintained areas where invasive species including reed canarygrass (*Phalaris arundinacea*), English ivy (*Hedera helix*), and common tansy (*Tanacetum vulgare*) are common. As discussed in Section 5 above, temporary and permanent impacts to the vegetation within the WRG are unavoidable. All temporarily impacted areas will be restored. Trees and shrub plantings, as well as different types of seeding suitable to different areas, are proposed. Natural vegetation, including trees, shrubs, and grass will be provided between the Willamette River and the project elements. See Attachment 1 of the application, Figure 6 and sheets FA03-FA07 and FB02-FB04 for a draft of the proposed restoration plan."*

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The proposed vegetation restoration plan submitted with the application indicates planting after construction will be at an amount equal to or greater than the existing vegetative area surrounding the bridge. The proposed vegetation restoration plan marks an increase in vegetation and tree planting in landscaping area, open space and vegetation in the riparian are of the Willamette River and the adjacent area after the project is completed. The Director finds the applicant adequately addresses this criterion and that this criterion is met.

#### IV. CONCLUSION

Sufficient information is available to conclude the proposal is consistent with the applicable decision criteria, subject to compliance with the permit conditions and Code requirements include in this decision. Therefore, a request for a conditional use permit to construct a new two-lane eastbound bridge with a multi-use path to replace the existing one-lane Van Buren Bridge within the Willamette River Greenway is approved.

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# Wetland Land Use Notice Response

## LINN COUNTY

JUL 27 2021

Planning & Building  
Department

### Response Page

Department of State Lands (DSL) WN#\*  
WN2021-0740

### Responsible Jurisdiction

Staff Contact	Jurisdiction Type	Municipality
Alyssa Boles	County	Linn
Local case file #	County	
PLN-2021-00117	Linn	

### Activity Location

Township	Range	Section	QQ section	Tax Lot(s)
11S	05W	35	DD	200

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Linn

Latitude

44.565618

Longitude

-123.255919

### Wetland/Waterway/Other Water Features

- There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.
- The National Wetlands Inventory shows wetland, waterway or other water features on the property
- The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.
- The property includes or is adjacent to designated Essential Salmonid Habitat.
- The property includes or is adjacent to state-owned waters.

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## Your Activity

It appears that the proposed project will impact Essential Salmonid Habitat and, therefore, requires a State permit.

It appears the proposed project is within a state-owned water and may require an authorization

An onsite inspection by a qualified wetland consultant is recommended prior to site development to determine if the site has wetlands or other waters that may be regulated. The determination or delineation report should be submitted to DSL for review and approval. Approved maps will have a DSL stamp with approval date and expiration date.

## Applicable Oregon Removal-Fill Permit Requirement(s)

A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

A state permit is required for any amount of fill, removal, and/or other ground alteration in Essential Salmonid Habitat and within adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to the stream.

## Closing Information

### Additional Comments

It is unclear based on the project description/maps provided whether new removal and fill are to be placed within the bed and banks of the Willamette River. As an essential salmon waterway, any amount of disturbance (assuming access, removal, pilings for the bridge, etc), would require a state permit. Please contact me with any further questions.

**This is a preliminary jurisdictional determination and is advisory only.**

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

### Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

### Response Date

7/27/2021

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Response by:

Matthew Unitis

Response Phone:

503-986-5262

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