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June 4, 2024

Mary Bjork
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

RE: MODIFICATION to Application for Limited Water Use License – LL-1976
and REVISED Proposed Mitigation Plan

Dear Mary,

Jeld-Wen, Inc. (Jeld-Wen) submitted an application and supporting documentation for a Limited Water Use License on April 22, 2024, which proposed to use groundwater at a rate not to exceed 224 gallons per minute (gpm) (0.5 cubic feet per second [cfs]) from an existing well at the Jeld-Wen manufacturing site in Klamath Falls. OWRD received the application package and assigned the File # LL-1976. As part of its review process, OWRD submitted the application to Oregon Department of Environmental Quality (DEQ) and Oregon Department of Fish and Wildlife (ODFW) for a Division 33 review. Both agencies have completed their respective reviews of the application and both recommend that year-round mitigation be provided as a condition of the application being approved.

While Jeld-Wen does not necessarily agree with the DEQ and ODFW reviews, Jeld-Wen wishes to proceed by satisfying the recommendations set forth in the reviews. Jeld-Wen understands that the proposed mitigation (IL-1550) submitted with the application on April 22, 2024, is insufficient (in its current form) to meet the year-round mitigation recommendations by DEQ and ODFW. Therefore, this letter is intended to complete the following:

1. Revise the mitigation proposed for Application LL-1976. Because year-round mitigation is being recommended, Jeld-Wen is withdrawing the Instream Lease IL-1550 as the mitigation source (as it is currently shaped to provide mitigation during the June through October period) and replacing it with Instream Lease Application IL-2019. IL-2019 proposes to legally protect instream Jeld-Wen's existing industrial use surface water right from Upper Klamath Lake, KA-160. This claim authorizes the use of up to 67.32 gpm (or 0.15 cfs) and 109 acre-feet per year (AF/year) of surface water from the lake for industrial use year-round. The application is currently being processed by the Department and a final order is expected soon.
2. Request a rate reduction for use of water under Application LL-1976 from a rate of 0.5 cfs in the original application down to 0.15 cfs (up to a volume of 109 AF/year) to match the rate available in IL-1990, which will now serve as the proposed mitigation.
3. Submit the attached mitigation proposal that addresses the ODFW Fish and Wildlife Habitat Mitigation Policy requirements (OAR 635-415). We assume that OWRD will pass this on to ODFW for its review.

Jeld-Wen has been operating the well that is the proposed authorized point of appropriation under Application LL-1976 under an existing limited license (LL-1784) that expires this summer. Application LL-1976 is designed to continue the authorization to operate the well while Jeld-Wen and the Department finalize processing of Jeld-Wen's permanent groundwater permit Application G-17983.

In addition, Jeld-Wen assumes that use of water under Application LL-1976 (as modified by this correspondence) will cease once groundwater permit Application G-17983 is approved by the Department and the periods within which any requests for reconsideration or petitions for judicial review of the final order have expired (i.e., 60 days from the date of the final order for Application G-17983). In the event such requests for reconsideration or petitions for judicial review are filed within the requisite periods, Jeld-Wen assumes that use of water under Application LL-1976 will cease once such requests or petitions are fully resolved.

Please do not hesitate to call if you have any questions or need additional information.

Sincerely,
GSI Water Solutions, Inc.



Bruce Brody-Heine
Principal Hydrogeologist

Enclosures: Proposed Mitigation Plan

Cc: Jeld-Wen, Inc./Larry Maurer
Stoel Rives LLP/David Filippi

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Proposed Mitigation Plan

Jeld-Wen's Limited License Application LL-1976

Introduction

On April 22, 2024, Jeld-Wen, Inc. (Jeld-Wen) submitted an application to the Oregon Water Resources Department (OWRD) for a Limited Water Use License that requested to appropriate groundwater from an existing well at a rate not to exceed 224 gallons per minute (gpm) (0.5 cubic feet per second [cfs]) and an annual volume of up to 100 acre-feet at the Jeld-Wen manufacturing site in Klamath Falls. OWRD received the application package and assigned the file # LL-1976. Jeld-Wen has been operating this well under an existing limited license (LL-1784), which authorizes industrial use of up to 224 gpm. This existing limited license is using instream lease IL-1550 as mitigation for the use of water. Because LL-1784 expires in August 2024, the April 22, 2024, application was intended to continue the authorization to operate the well in a similar manner as authorized under LL-1784 while Jeld-Wen and the Department finalize processing of Jeld-Wen's permanent groundwater permit application G-17983.

As part of its limited license review process, OWRD submitted application LL-1976 to the Oregon Department of Environmental Quality (DEQ) and Oregon Department of Fish and Wildlife (ODFW) for a Division 33 review. Both agencies completed their respective reviews of the application and recommended year-round mitigation be provided as a condition of the application being approved.

While Jeld-Wen does not necessarily agree with the DEQ and ODFW reviews, Jeld-Wen wishes to proceed by satisfying the recommendations set forth in the reviews. Jeld-Wen understands that the proposed mitigation submitted with the April 22, 2024, application is insufficient (in its current form) to meet the year-round mitigation recommendation by DEQ and ODFW. Therefore, on June 4, 2024, Jeld-Wen amended Application LL-1976 in a letter to OWRD (Attachment A), which included year-round mitigation associated with surface water claim KA-160 and reduced the proposed groundwater use to an amount equivalent to that which could be mitigated using Claim KA-160.

Claim KA-160 authorizes the use of up to 67.32 gpm for industrial use year-round, which is equivalent to 109 acre-feet (AF). Jeld-Wen's amended limited license application LL-1976 proposes to use groundwater at a daily instantaneous rate of up to 67.32 gpm and an annual volume of up to 109 AF. Although the average rate of water use is 67.32 gpm (96,941 gallons per day or 678,585 gallons per week), because the facility's existing water system is designed and constructed to replenish the facility's 750,000-gallon storage tank, the instantaneous rate may be higher for short periods of time. The system only runs a few hours at a time (as needed) to replenish the storage tank, and the tank is then used to deliver water to the various industrial uses across the manufacturing facility. The 2,290 feet from the well to the lake will buffer the instantaneous impact of the proposed short duration pumping combined with the long duration periods of non-pumping. Jeld-Wen understands that OWRD will require reporting of monthly water volumes used under application LL-1976 to ensure that the authorized use under the limited license is not exceeded.

Jeld-Wen submitted a water right application (IL-2019) to legally protect the industrial use portion of the authorized use under Claim KA-160 for instream use on April 1, 2024, and a final order is expected soon. In addition, Jeld-Wen assumes that use of water under Application LL-1976 will cease once groundwater permit Application G-17983 is approved by the Department and the periods within which any requests for reconsideration or petitions for judicial review of the final have expired (i.e., 60 days from the date of the

final order for Application G-17983). In the event such requests for reconsideration or petitions for judicial review are filed within the requisite periods, Jeld-Wen assumes that use of water under Application LL-1976 will cease once such requests or petitions are fully resolved.

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Mitigation Plan Requirements:
(OAR 635-415-0020 (8))

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(a) Include information in (OAR 635-415-0020(4)(a)-(d))

(4) The Department's Recommendations or Requirements for Mitigating Impacts of Development Shall Be Based on the Following

(a) Location, Physical and Operational Characteristics, and Duration of the Proposed Development:

The proposed development includes pumping water from a groundwater well located 2,290 feet from Upper Klamath Lake for industrial use under Application LL-1976. Attachment B includes maps showing the well (KLAM 11674) and the industrial place of use to be authorized under LL-1976. Water from the well will be pumped into a 750,000-gallon storage tank, conveyed throughout the manufacturing facility through a closed pipe system, and used for various industrial purposes in the facility's buildings. Application LL-1976 would supply water at the facility year-round for up to 5 years.

4(b) Alternatives to Proposed Development Action:

No alternatives to the proposed development actions were identified. Jeld-Wen holds surface water rights on Upper Klamath Lake (the industrial use portions of Claim KA-160 (67.32 gpm)) and this proposed development is an alternative to pumping directly from the lake under Jeld-Wen's existing claim.

4(c) Fish and Wildlife Species and Habitats Affected:

ODFW's review indicated Redband trout, Lost River suckers, and shortnose suckers are present in Klamath Lake. See Oregon Department of Fish and Wildlife's (ODFW) Division 33 Application Review Sheet included in Attachment C.

4(d) Nature, Extent, and Duration of Impacts:

OWRD determined that the use of groundwater proposed in Application LL-1976 has the potential for substantial interference (PSI) with Klamath Lake. ODFW's Division 33 Application Review Sheet states that water is not available to support biologically necessary flows within the impacted reach year-round. In addition, DEQ's review indicates upper Klamath Lake is water quality limited during the year due to water quality limitations and available flows thresholds not being met (Attachment C).

Therefore, because Jeld-Wen's proposed groundwater right has PSI with the adjacent surface water system, ODFW and DEQ are recommending Jeld-Wen supply year-round mitigation to offset the impacts of the water use under Application LL-1976.

(b) Mitigation Actions (OAR 635-415-0025):

Jeld-Wen is proposing to legally protect instream its existing industrial use of surface water right under Claim KA-160, with a diversion on the Lake, as bucket-for-bucket mitigation for pumping from the groundwater well. On April 1, 2024, Jeld-Wen submitted to OWRD an application to legally protect the industrial use portion of KA-160 instream (IL-2019) as instream use. LL-1976, when issued, will require that mitigation water must be legally protected instream for instream use and it must be maintained for the life of the limited license.

As a result of this bucket-for-bucket mitigation action, there will be no impacts to surface water flow in Upper Klamath Lake or Link River from issuance of a limited license pursuant to Jeld-Wen's Application LL-1976.

(c) Map and Location Description of Development Actions:

A map describing the place of use and well (KLAM 11674) proposed in Application LL-1976 is included in Attachment A.

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(d) Complement and Not Diminish Previous Mitigation Actions:

The proposed mitigation will not impact previous mitigation actions.

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(e) Protocols and Methods for Monitoring Effectiveness of Mitigation Measures:

OWRD's issuance of a limited license pursuant to Application LL-1976 will require that bucket-for-bucket mitigation water is legally protected instream for the life of the limited license. Jeld-Wen is responsible for maintaining compliance with these conditions and OWRD is responsible for the management, compliance, and regulation of existing water rights. Therefore, no effectiveness monitoring is required of Jeld-Wen for water legally protected instream for instream use.

(f) Future Modification of Mitigation Measures:

Future modification of proposed instream lease mitigation measures is not applicable. OWRD's approval of Application LL-1976 will require Jeld-Wen to maintain mitigation for the life of the limited license.

(g) Effectiveness throughout Duration of Project Impacts:

OWRD's issuance of a limited license pursuant to Application LL-1976 will require that bucket-for-bucket mitigation water is legally protected instream for the life of the limited license. Once OWRD issues a final order legally protecting water instream, the mitigation project is complete.

(h) Mitigation Plan Performance Measures (A)-(D):

- (A) The method for meeting the mitigation goal is legal protection of the industrial use portion of Claim KA-160 instream through OWRD's established water right process.
- (B) Indication that the mitigation goal has been met will be the issuance of an OWRD final order legally protecting the industrial use portion of Claim KA-160 instream for instream use.
- (C) OWRD's final order approving Application LL-1976, when issued, will require that mitigation water be legally protected instream for instream use for the life of the limited license.
- (D) A mitigation plan progress schedule is not required because the entire proposed mitigation will be achieved once OWRD issues the final order legally protecting the industrial use portion of Claim KA-160 for instream use.

Summary

Jeld-Wen has submitted a limited license application (LL-1976) to use water from a groundwater well to replace its existing industrial use surface water right, Claim KA-160. Jeld-Wen is proposing to legally place instream its existing surface water right as bucket-for-bucket mitigation for pumping from the groundwater well.

As a result of this mitigation, there will be no impacts to surface water in Upper Klamath Lake or the Link River due to the use of groundwater under a limited license issued pursuant to Application LL-1976.

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Attachment A

Limited License Application LL-1976 Modification Letter

Proposed Mitigation Plan
Jeld-Wen, Inc.

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Water Solutions, Inc.

June 4, 2024

Mary Bjork
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

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and REVISED Proposed Mitigation Plan

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Sincerely,
GSI Water Solutions, Inc.



Bruce Brody-Heine
Principal Hydrogeologist

Enclosures: Proposed Mitigation Plan

Cc: Jeld-Wen, Inc./Larry Maurer
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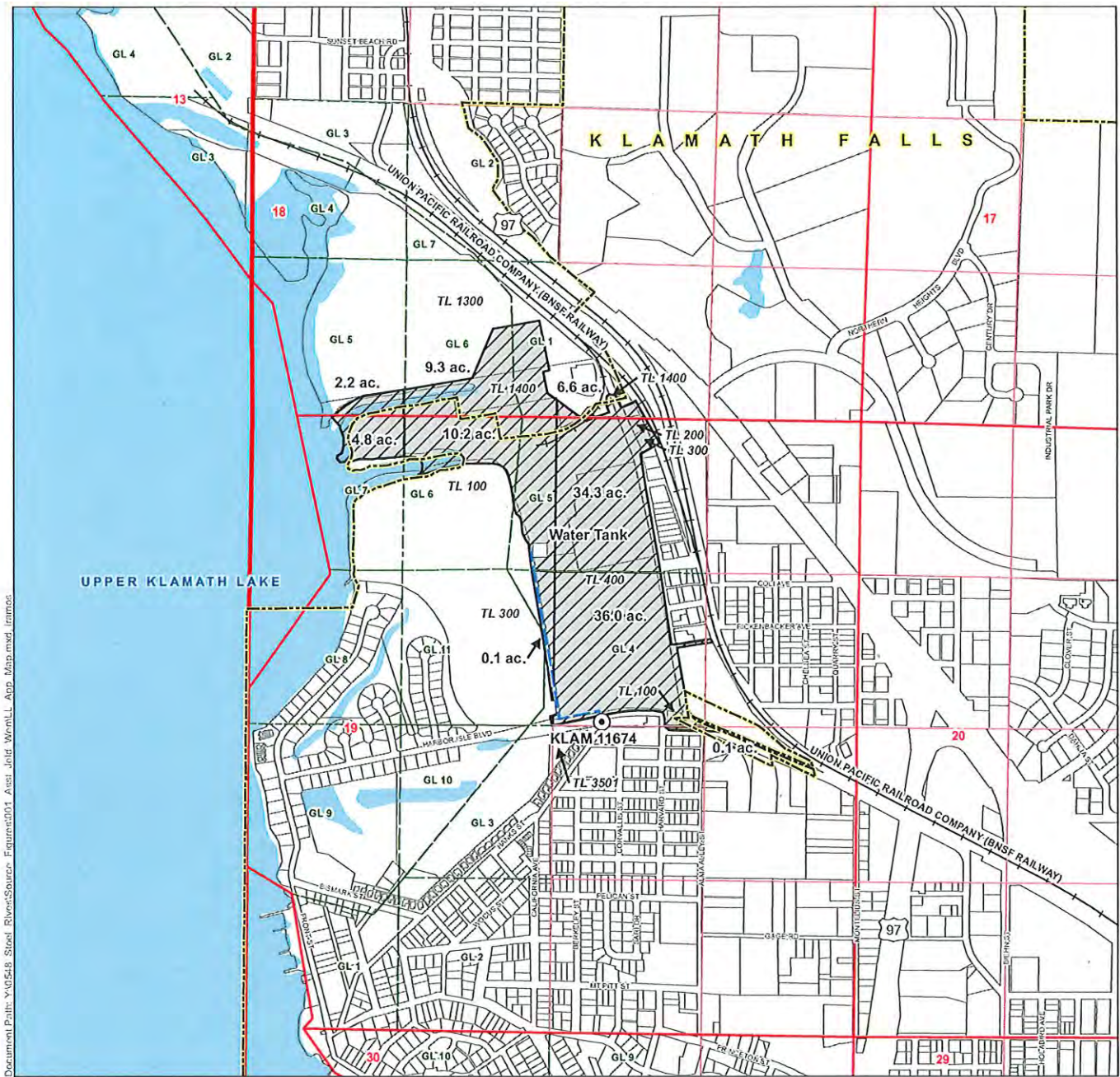
OWRD

Attachment B

Limited License Application LL-1976 Map

Proposed Mitigation Plan

Jeld-Wen, Inc.



Document Path: Y:\GIS\B-Stud-E\WorkSource-Export\2024_Aest-Jeld-Wen\LL-App-Map.mxd, Jeld-Wen

LEGEND

- Point of Appropriation (POA)
- Water Tank
- Water Conveyance Pipeline
- Place of Use (POU)
- City Boundary
- Tax Lots
- Government Lot (GL)
- Railroad
- Watercourse
- Waterbody

**Application for Limited Water Use License
in the Name of Jeld-Wen, Inc.
Place of Use/Point of Appropriation Map**

Township 38 South, Range 9 East (W.M.)

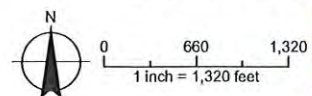
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DISCLAIMER
This map was prepared for the purpose of identifying the location of a water right only and it is not intended to provide legal dimensions or location of property ownership lines.

Date: April 2, 2024
Data Sources: BLM, ESRI, OWRD, USGS

POA LOCATION DESCRIPTION

KLAM 11674
Located 30 feet North and 2,215 feet West from the E 1/4 corner of Section 19, Township 38 South, Range 9 East (W.M.)



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Attachment C

DEQ & ODFW Division 33 Application Review Sheet

Proposed Mitigation Plan
Jeld-Wen, Inc.

**Oregon Department of Fish and Wildlife's
LIMITED LICENSE
Application Review Summary Sheet**



Note: For proposed groundwater uses, the impacts identified in Section 3.1 and 3.2 are only applicable if OWRD determines there is the potential for substantial interference with surface water per OAR 690-009.

Threatened and/or Endangered Species (Section 4)

Will the proposed use result in a loss of essential habitat of a threatened and/or endangered fish species?

YES; see details in Section 4 NO

NOT APPLICABLE; threatened and/or endangered fish will not be impacted by the proposed use.

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Sensitive Species (Section 5)

Will the proposed use result in a net loss of essential habitat of a sensitive species?

YES; see details in Section 5 NO

NOT APPLICABLE; sensitive fish will not be impacted by the proposed use.

Public Interest (Section 6)

Will the proposed use impair or be detrimental to the public interest (in addition to that identified under Division 33)?

YES; see details in Section 6 NO

Conditions (Section 3 and 6)

ODFW recommends the following conditions, along with any mitigation outlined in Section 7, to overcome impairment or detrimental impacts to sensitive, threatened, and/or endangered fish species, non-listed fish species, wildlife, or habitat (see REVIEW SHEET for additional information):

Section 3.1 Identification of Biologically Necessary Flows

"Mitigation Plan" [A] "Mitigation" [A] "Measurement Device" [A] "Bypass Plan" [B] "Bypass Flow" [B]

Section 3.2 Biological Flow Availability

"Maintain Flow" [A] "Mitigation Plan" [A] "Mitigation" [A] "Measurement Device" [A]

Section 3.3 Fish Passage and Screening

"Passage" [A] "Maintain Passage" [A] "Screen" [B] "Future Protection" [B]

Section 3.4 Other Ecological Functions

"Wetland" [A] "Riparian Plan" [A] "Riparian" [A] "In-water Work" type months here [A] "Fish Stocking" [A]

Site-specific condition(s), including, but not limited to, any identified in Section 6: type here

Comments: type here

Mitigation (Section 7)

Is ODFW recommending mitigation in addition to any conditions identified?

YES; see recommended Mitigation Obligation in Section 7

YES; contact ODFW if the applicant is interested in pursuing mitigation

NO

Oregon Department of Fish and Wildlife's LIMITED LICENSE Application Review Sheet



The Oregon Department of Fish and Wildlife (ODFW) provides the following recommendations to protect and enhance Oregon's fish and wildlife and their habitats for use and enjoyment by present and future generations. Mitigation recommendations are consistent with the goals and standards in ODFW's OAR 635-415 (Fish and Wildlife Habitat Mitigation Policy) and other applicable law. The information is requested by the Oregon Department of Water Resources (OWRD) for the purposes of consultation pursuant to OAR 690-33 (Additional Public Interest Standards for New Appropriations), OAR 690-310 (Water Rights Application Processing), OAR 690-400 (State Water Resources Policy), and OAR 690-410 (Statewide Water Resource Management). ODFW recommendations herein are to be utilized in coordination with the Oregon Department of Environmental Quality's (ODEQ) recommendations regarding impacts to aquatic life due to impaired water quality.

Section 1: Proposed Use

Basin: Klamath
 Stream: A Well Tributary to: Link River
 TRSQQ: 38.00S-9.00E-19-SW NE (optional)
 Proposed period of use (from application, if available): Year-round
 Requested amount (cfs or AF): 0.5 cfs

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Section 2: Fish Species Present

- A) No fish species will be impacted by the proposed use based on parameters assessed by ODFW. **(Skip to Section 6)**
- B) The following fish species of primary concern are present at the location of the proposed use or will be impacted by the proposed use:

Species	Listing Status				Life Stage Present		
	Sensitive	Threatened	Endangered	Not Listed*	Spawning	Rearing	Migration
<u>Redband trout</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Lost River Sucker</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Shortnose Sucker</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*Impacts to species not listed as sensitive, threatened, and/or endangered are addressed in Section 6.

Section 3: Potential Impacts to Fish Species

Note: Impacts identified below are determined by professional judgment and/or best available science. Recommended mitigation for identified impacts is outlined in Section 7. See Section 8 for recommended "condition" language.

3.1 Identification of Biologically Necessary Flows

A) Is the proposed use from groundwater?

YES; The impacts identified in Section 3.1 and 3.2 are only applicable if OWRD determines there is the potential for substantial interference with surface water per OAR 690-009.

NO

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B) ODFW has not identified biologically necessary flows within the impacted reach.

"Measurement Device"

However, based on best professional judgment, impacts to fish from the proposed reduction in flow are expected to be **inconsequential** or there is insufficient information at this time to determine if the proposed use will impair biologically necessary flows for fish. Therefore, no mitigation for a reduction in flow is recommended. ODFW recommends the system installed to divert water include monitoring equipment, the type determined by OWRD, which allows water use measurement and reporting and ensures the permitted amount is not exceeded. **(Skip to Section 3.3)**

"Mitigation Plan," "Mitigation," and "Measurement Device"

However, based on OWRD's Water Availability Reporting System, **water is not available** entirely or partially for the proposed use. A further reduction of flow during type here would be harmful to fish.

ODFW recommends the season of use be restricted to type here if the applicant can show beneficial use during this time (OAR 690-300-0010(57)(b)) or the proposed use be mitigated prior to issuance of a Proposed Final Order for any use outside of this period. **(Skip to Section 3.3)**

ODFW recommends the proposed use be mitigated prior to issuance of a Proposed Final Order. **(Skip to Section 3.3)**

C) ODFW recommends the following biologically necessary flows to support the biological needs of fish species:

Instream Water Right certificates and pending applications at the point of impact and/or downstream **IS-70813, IS-70812 & IS-70094**

Other biologically necessary flows:

JAN	type here cfs	APR	type here cfs	JUL	type here cfs	OCT	type here cfs
FEB	type here cfs	MAY	type here cfs	AUG	type here cfs	NOV	type here cfs
MAR	type here cfs	JUN	type here cfs	SEP	type here cfs	DEC	type here cfs

Source: ODFW Regional Flow Target Assessment

based on list BIR here

type other source here

D) "Bypass Plan" and "Bypass Flow" (for reservoirs that directly divert from surface water)

Per 690-410-0070 (2)(c), ODFW recommends the following biologically necessary flows, minus any amount that the applicant may provide as mitigation, be bypassed (passed through) the reservoir **during the filling season**.

JAN	type here cfs	APR	type here cfs	JUL	type here cfs	OCT	type here cfs
FEB	type here cfs	MAY	type here cfs	AUG	type here cfs	NOV	type here cfs
MAR	type here cfs	JUN	type here cfs	SEP	type here cfs	DEC	type here cfs

D) Comments concerning biologically necessary flows: type here

3.2 Biological Flow Availability

A) Based on parameters assessed by ODFW, are the recommended biologically necessary flows (identified in Section 3.1, Question B) available within the impacted reach during the period of impact?

YES; "Maintain Flow" and "Measurement Device"

A further reduction in flow from the proposed use will **not** impair biologically necessary flows for fish as long as the recommended flows remain satisfied real time within and downstream of the point of impact. ODFW recommends the system installed to divert water include monitoring equipment, the type determined by OWRD, which allows water use measurement and reporting and ensures the permitted amount is not exceeded.

NO; "Mitigation Plan," "Mitigation," and "Measurement Device"

The proposed use **will impair** biologically necessary flows for fish entirely or partially during the period of impact.

Water is only available to support biologically necessary flows within the impacted reach during type months here. ODFW recommends the season of use be restricted to coincide with this period if the applicant can show beneficial use during this time (OAR 690-300-0010(57)(b)) or the proposed use be mitigated prior to issuance of a Proposed Final Order for any use outside of this period.

Water is not available to support biologically necessary flows within the impacted reach year-round. ODFW recommends the proposed use be mitigated prior to issuance of a Proposed Final Order.

UNKNOWN; "Mitigation Plan," "Mitigation," and "Measurement Device"

There is insufficient information on instream flow availability (e.g., no Water Availability Basin or gage) to determine if the proposed use will impair biologically necessary flows for fish. Therefore, ODFW assumes impairment and recommends the proposed use be mitigated prior to issuance of a Proposed Final Order unless the applicant provides sufficient evidence to ODFW that the biologically necessary flows are available and can be maintained within the impacted reach.

NOT APPLICABLE; "Measurement Device"

ODFW has determined that impacts to fish habitat from the proposed reduction in flow are expected to be **inconsequential or de Minimis** based on parameters assessed. Therefore, ODFW does not recommend mitigation for a reduction in flow at this time. However, ODFW recommends the system installed to divert water include monitoring equipment, the type determined by OWRD, which allows water use measurement and reporting and ensures the permitted amount is not exceeded.

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B) Comments concerning availability of biologically necessary flows: type here

3.3 Fish Passage and Screening

A) Would the proposed use potentially create or maintain an artificial obstruction¹ to fish passage for native migratory fish currently or historically present *at the point of diversion* per ORS 509.585?

YES; "Passage"

NO

NO; "Maintain Passage"

Based on available information, the proposed use does not appear to involve instream structures that would create or maintain an artificial obstruction. However, if the applicant creates or maintains an artificial obstruction to fish passage for the proposed use, the applicant will need to address Oregon's fish passage laws prior to

¹ "Artificial obstruction" means any dam, diversion, dike, berm, levee, tide or flood gate, road, culvert or other human-made device placed in the waters of this state that precludes or prevents the migration of native migratory fish.

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diversion of water.

B) Would fish species benefit from fish screening per ORS 498.306?

- YES; "Screen"
- NO
- "Future Protection"

Fish screening will not currently benefit fish species but may be beneficial in the future if conditions within the watershed change. Please describe current conditions within the watershed: [type here](#)

C) Comments concerning fish passage or screening: [type here](#)

3.4 Other Ecological Functions

A) Are there other impacts to ecological functions important to fish during the period of impact?

- YES; A "condition" will be identified below or mitigation will be recommended in Section 7.4.
 - The proposed project may impair or be detrimental to the public interest through impairment of a wetland providing fish habitat. "Wetland"
 - Development of the proposed project may disturb the riparian area that provides habitat to fish. "Riparian" and "Riparian Plan"
 - To have the least impact on fish and habitat resources, ODFW recommends any in-water work related to construction, development, or maintenance of the proposed use be conducted during the preferred work period of [type here](#) "In-water Work"
 - The permittee shall not stock fish in the reservoir without a fish transport permit approved by ODFW. "Fish Stocking"
 - Other impacts to fish: [type here](#)
- NO

B) Other comments concerning ecological functions important to fish: [type here](#)

Section 4: ODFW Findings Regarding Threatened and/or Endangered Fish Species (under OWRD's Division 33 Statewide Rules)

NOT APPLICABLE; threatened and/or endangered fish will not be impacted by the proposed use. Skip to Section 5.

Overarching Question 1:
Will the proposed use result in a loss of essential habitat of a threatened and/or endangered fish species?
Note: For impacts to non-essential habitat for threatened and/or endangered species under Habitat Categories 3-6, skip to Section 6.

- YES; Based on parameters assessed, ODFW has found impairment of biologically necessary flows or the assumption of impairment due to insufficient information on instream flow availability (Section 3.2, Question A), the need for fish passage or screening (Section 3.3), or impacts to ecological functions (Section 3.4) essential to threatened and/or endangered fish species during the period of impact.
- NO; Based on parameters assessed, ODFW finds the use will either **not impair** biologically necessary flows (Section 3.2, Question A) and ecological functions essential to threatened and/or endangered fish species (Section 3.4) or the proposed reduction in flow is expected to be **inconsequential or de Minimis** (Section 3.1, Question A; Section 3.2, Question A).

Overarching Question 2:
Can the use be conditioned to result in no loss of essential habitat of a threatened and/or endangered fish species?

- YES; YES; ODFW recommends the conditions recommended in Section 3 to compensate for any potential impact from the proposed use.
- ODFW recommends the applicant submit, to the application caseworker at WRD, a Mitigation Proposal that fulfills the Mitigation Obligation consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations) outlined in Section 7, and other conditions recommended from Sections 3, to compensate for any potential impact from the proposed use.
- In addition, ODFW recommends the following site-specific condition(s): type here
- NO; ODFW found the proposed use will impact irreplaceable, essential habitat for a threatened and/or endangered fish species, population, or a unique assemblage of species that is limited on either a physiographic province or site-specific basis (i.e., **Category 1 Habitat**). ODFW recommends avoidance of the impact through alternatives to the proposed use or no authorization of the proposed use if impacts cannot be avoided. Otherwise, the proposed use would harm the species.

Comments: type here

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Section 5: ODFW Findings Regarding Sensitive Fish Species (under OWRD's Division 33 Statewide Rules)

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- Sensitive species will not be impaired by the proposed use. **Skip to Section 6.**

Overarching Question 1:
Will the proposed use result in a net loss of essential habitat of a sensitive fish species?
Note: For impacts to non-essential habitat for sensitive species under Habitat Categories 3-6, skip to Section 6.

- YES; Based on parameters assessed, ODFW has found impairment of biologically necessary flows or the assumption of impairment due to insufficient information on instream flow availability (Section 3.2, Question A), the need for fish passage or screening (Section 3.3), or impacts to ecological functions (Section 3.4) essential to sensitive fish species during the period of impact.
- NO; Based on parameters assessed, ODFW finds the use will either not impair biologically necessary flows (Section 3.2, Question A) and ecological functions essential to sensitive fish species (Section 3.4) or the proposed reduction in flow is expected to be inconsequential or de Minimis (Section 3.1, Question A; Section 3.2, Question A).

Overarching Question 2:
Can the use be conditioned to result in no net loss of essential habitat of a sensitive fish species?

- YES; ODFW recommends the conditions and mitigation recommended in Sections 3, 4, and 7 to compensate for any potential impact from the proposed use.
- ODFW recommends the applicant submit, to the application caseworker at WRD, a Mitigation Proposal that fulfills the Mitigation Obligation consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations) outlined in Section 7, and other conditions recommended from Sections 3 and 4, to compensate for any potential impact from the proposed use.

- In addition, ODFW recommends the following site-specific condition(s): type here
- NO; ODFW found the proposed use will impact irreplaceable, essential habitat for a sensitive fish species, population, or a unique assemblage of species that is limited on either a physiographic province or site-specific basis (i.e., **Category 1 Habitat**). ODFW recommends avoidance of the impact through alternatives to the proposed use or no authorization of the proposed use if impacts cannot be avoided. Otherwise, the proposed use would harm the species.

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Comments: type here

Section 6: ODFW's Public Interest Findings (under OWRD's Division 310)

Note: Comment on fish or wildlife species not already discussed in Sections 4 or 5 and impacts to non-essential habitat of STE fish.

Overarching Question 1:
Will the proposed use impair or be detrimental to the public interest?

- YES; In addition to those previously identified in Sections 4 and 5, the proposed use will impair or be detrimental to the following public interest(s) under ORS 537.170(8):
identify beneficial use(s) and how they are impaired or detrimentally affected
- NO; Impairment or detriment to public interests, in addition to those previously identified in Sections 4 and 5, will be inconsequential from the proposed use or has not been assessed at this time. **Skip to Section 7.**

Overarching Question 2:
Can the proposed use be conditioned to overcome the impairment or detriment to the public interest?

- YES;
 - The same conditions and mitigation as outlined in Sections 3, 4, and 7 apply.
 - ODFW recommends the following site-specific condition(s): type here
- NO; ODFW found the proposed use will impact irreplaceable, essential habitat for a fish or wildlife species, population, or a unique assemblage of species that is limited on either a physiographic province or site-specific basis (i.e., **Category 1 Habitat**). ODFW recommends avoidance of the impact through alternatives to the proposed use or no authorization of the proposed use if impacts cannot be avoided. Otherwise, the proposed use would harm the species.

Comments: type here

Section 7: ODFW's Recommended Mitigation Obligation

- NOT APPLICABLE; ODFW is not recommending mitigation. (Sign and STOP here)

ODFW Representative's Signature: _____ Date: type here

Name: type here

Phone: type here

Email: type here

Mitigation Obligation

- ODFW's assessment reveals flows within the impacted reach are or are assumed to be entirely or partially below

those essential to support the biological needs of fish, wildlife, or habitats and/or the proposed use will otherwise impact habitat, so the proposed use may diminish physical habitat and alter the flow regime to which fish and wildlife are naturally adapted. These changes will negatively affect their distribution, productivity, and abundance. Therefore, a further reduction in flow or alteration of habitat from the proposed water use would impair or be detrimental to fish, wildlife, and/or their habitat without appropriate mitigation. ODFW recommends the applicant contact the caseworker to schedule a consultation with ODFW concerning the following recommended Mitigation Obligation, if questions arise.

Choose One:

- A) Water is not available to support biologically necessary flows at the POD and/or downstream year-round. ODFW recommends the proposed use be mitigated prior to issuance of a Proposed Final Order. Without appropriate mitigation and/or conditions, a further reduction in flow or alteration of habitat from the proposed water use outside this period will impair or be detrimental to sensitive, threatened, and/or endangered fish species, non-listed fish species, or wildlife. If the applicant is interested in pursuing mitigation, please contact ODFW for further information concerning appropriate conditions and a Mitigation Obligation consistent with OAR 635-415, as required under OAR 690-33, to compensate for any potential impact from the proposed use. Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water through purchasing or transferring an existing water right.
- B) Water is only available to support biologically necessary flows at the POD and/or downstream during type months here. ODFW recommends the season of use be restricted to coincide with this period or the proposed use be mitigated prior to issuance of a Proposed Final Order for any use outside of this period. Without appropriate mitigation and/or conditions, a further reduction in flow or alteration of habitat from the proposed water use outside this period will impair or be detrimental to sensitive, threatened, and/or endangered fish species, non-listed fish species, or wildlife. If the applicant is interested in pursuing mitigation, please contact ODFW for further information concerning appropriate conditions and a Mitigation Obligation consistent with OAR 635-415, as required under OAR 690-33, to compensate for any potential impact from the proposed use. Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water through purchasing or transferring an existing water right.
- C) There is insufficient information on instream flow availability (e.g., no Water Availability Basin or gage) to determine if the proposed use will impair biologically necessary flows for fish. Therefore, ODFW recommends the proposed use be mitigated prior to issuance of a Proposed Final Order unless the applicant provides sufficient evidence to ODFW that the biologically necessary flows are available and can be maintained within the impacted reach. Without appropriate mitigation and/or conditions, a further reduction in flow or alteration of habitat from the proposed water use outside this period may impair or be detrimental to sensitive, threatened, and/or endangered fish species, non-listed fish species, or wildlife. If the applicant is interested in pursuing mitigation, please contact ODFW for further information concerning appropriate conditions and a Mitigation Obligation consistent with OAR 635-415, as required under OAR 690-33, to compensate for any potential impact from the proposed use. Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water through purchasing or transferring an existing water right.
- D) Mitigation is not an option. ODFW recommends avoidance of the impact through alternatives to the proposed use or no authorization of the proposed use if impacts cannot be avoided.
- E) Based on ODFW's knowledge of applicable Subbasin Plans, Recovery Plans, Regional Restoration Plans, or other documents, the proposed use appears inconsistent with the Northwest Power and Conservation Council's Columbia River Basin Fish and Wildlife Program², impairs essential habitat, or is otherwise detrimental to the protection and/or recovery of sensitive, threatened, and/or endangered fish species, non-listed fish species, or

² Water Resources Department's document number 94-2

wildlife. Therefore, ODFW recommends the applicant submit, to the application caseworker at WRD, a Mitigation Proposal that fulfills the Mitigation Obligation (consistent with the goals and standards of OAR 635-415-0025; ODFW Habitat Mitigation Recommendations) as outlined in this section(s), **as well as other conditions recommended in Sections 3-6.** ODFW recommends the Proposal include an assessment of options using the following actions listed in order of priority:

- (1) avoiding the impact altogether,
- (2) minimizing the impact by limiting the degree or magnitude of the action,
- (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment,
- (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the development action and by monitoring and taking appropriate corrective measures, and
- (5) compensating for the impact by replacing or providing comparable substitute resources or environments.

Because the mitigation is site- and species-specific, ODFW recommends written approval of the Proposal by ODFW prior to issuance of a Proposed Final Order (see Section 9).

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7.1 Identification of Habitat Category

Habitat Category³ for the Primary Species of Concern During the Period of Impact:

Month	Primary Species of Concern	Habitat Category
January	type here	type here
February	type here	type here
March	type here	type here
April	type here	type here
May	type here	type here
June	type here	type here

Month	Primary Species of Concern	Habitat Category
July	type here	type here
August	type here	type here
September	type here	type here
October	type here	type here
November	type here	type here
December	type here	type here

7.2 Flow Mitigation

- If the applicant chooses to pursue water use during type here, when biologically necessary flows are not met or water is not available, ODFW recommends the applicant provide water-for-water mitigation that is **legally protected and maintained as an instream water right** for the life of the permit and subsequent certificate, as outlined below.
 - In lieu of mitigation, the applicant may provide evidence that the biologically necessary flows are available and can be maintained within the impacted reach.

ODFW recommends WRD's "Normal Mitigation," including any site-specific options addressed below.

A) Water Quantity: type here (equals amount requested)

plus a net benefit (for Habitat Category 2)

B) Months: type here

C) Location of Mitigation (based on the Habitat Category):

at or above the point of impact

at or above the point of impact is preferred, but may occur within the watershed/home range of the impacted population(s)

within a high priority reach⁴ within the watershed/home range of the impacted species or population

³ see ODFW Habitat Mitigation Policy, OAR 635-415-0025

⁴ see ODFW's Aquatic Habitat Priority maps

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- within the watershed/home range of the impacted population(s)
- benefitting the impacted population(s) and/or higher priority species: list species here

D) Additional comments: type here

7.3 Habitat Restoration Mitigation

Does the Mitigation Goal also allow a habitat restoration project as a mitigation option (i.e., impacts to Habitat Categories 3 – 6)?

- YES; In lieu of providing “water-for water”, ODFW’s Habitat Mitigation Policy allows the applicant the option of providing mitigation through a habitat restoration project that recreates similar habitat structure and function to that existing prior to the development action. If the applicant is interested in pursuing this option, please contact ODFW for further information.
- NO; Skip to Part 4, if applicable.

7.4 Other Ecological Functions Mitigation

- Not applicable
- ODFW recommends the applicant provide the following mitigation, including, but not limited to, mitigation for “Other Impacts to Ecological Functions” or impacts to wildlife.
Note: Copy and paste the template below for each habitat type in need of replacement.

A) Habitat Structure and Function in Need of Replacement: type here

B) Describe the habitat quantity and quality to be replaced: type here

- C) Months:
- In Perpetuity
 - Other: type here

- D) Location of Mitigation:
- at or above** the point of impact
 - at or above the point of impact is preferred, but may occur within the watershed/home range of the impacted population(s)
 - within a high priority reach⁵ within the home range of the impacted species or population
 - within the watershed/home range of the impacted population(s)
 - anywhere benefitting the impacted population(s) and/or higher priority species: list species here

E) Additional comments: type here

ODFW Representative’s Signature: _____ Date: 05/08/2024
 Name: Jorden Smith Phone: (541)805-1990 Email: Jorden.D.Smith@odfw.oregon.gov

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Section 8: ODFW's Recommended Condition Language

List A Conditions
(to be addressed by applicant prior to issuance of the Proposed Final Order)

Bypass Plan (for reservoirs that directly divert from surface water)

Prior to issuance of the Proposed Final Order, the applicant shall submit, to the application caseworker at OWRD, a Bypass Plan which describes the method the permittee shall bypass the recommended flows, as outlined in Section 3.1, C and how the permittee will quantify and document inflow and outflow.

Mitigation Plan

Prior to issuance of the Proposed Final Order, the applicant shall submit, to the application caseworker at OWRD, a Mitigation Proposal that fulfills the Mitigation Obligation consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations), as outlined in Section 7, to compensate for any potential impacts to fish, wildlife, or habitats from the proposed use.

Riparian Plan

If development of the point of diversion includes disturbance of the riparian area, the applicant shall be responsible for restoration and enhancement of such riparian area in accordance with the Oregon Department of Fish and Wildlife's (ODFW) Fish and Wildlife Habitat Mitigation Policy described in OAR 635-415. Prior to issuance of the Proposed Final Order, the applicant shall submit, to the application caseworker at OWRD, a Riparian Plan approved in writing by ODFW, unless ODFW provides documentation that a Riparian Plan is not necessary. The applicant is hereby directed to contact ODFW.

Wetland

Prior to issuance of the Proposed Final Order, the applicant must submit an offsite determination request to the Oregon Department of State Lands (DSL) to determine the need for a wetland delineation. The offsite determination will identify waters of this state that are subject to regulation and authorization requirements of the Removal-Fill Law (ORS 196.800 to 196.990) that may be needed prior to disturbance or development of the point of diversion.

List B Conditions
(included in permit and "maintenance" language carried through to certificate)

Bypass Flows (for reservoirs that directly divert from surface water)

Per 690-410-0070 (2)(c), the following flows shall be bypassed or passed through the reservoir during the filling season:

- 1) When the biologically necessary flows identified below are not available immediately upstream of the impacted area, the permittee shall pass all live flow downstream at a rate equal to the inflow, minus the amount of mitigation water provided upstream by the permittee, if applicable, and
- 2) When the biologically necessary flows identified below are available immediately upstream of the impacted area, the permittee shall pass flow downstream at a rate equal to or greater than the biologically necessary flows.

Once the reservoir has reached the permitted volume, all live flow shall be passed downstream at a rate equal to the inflow.

The permittee shall quantify and document inflow and outflow and maintain the bypass flows for the life of the permit and subsequent certificate per the approved Bypass Plan. The bypass flow data shall be available upon request by the Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, or Oregon Department of Agriculture.

{copy table from Section 3.1, Question C}

Fish Stocking

Per ORS 498.222 and OAR 635-007-0600, all persons transporting fish in Oregon need to have a fish transport permit issued by the Oregon Department of Fish and Wildlife (ODFW). The permittee shall not stock fish in the reservoir without a fish transport permit approved by ODFW. As part of the permitting process, the permittee must also screen the inlet and outlet of their pond to insure that fish cannot escape into public waters and/or to keep wild fish from entering the pond.

Future Protection

The permittee may be required in the future to install, maintain, and operate fish screening per ORS 498.306 to prevent harm to fish from the proposed diversion. The Oregon Department of Fish and Wildlife (ODFW) may require the water user to install an approved fish screen at the new point of diversion within one year after receiving written notification from ODFW that a fish screen is required. Once installed, the water user shall operate and maintain the fish screen consistent with ODFW's operation and maintenance standards.

In-Water Work

Any in-water work related to construction, development, or maintenance of the proposed use shall be conducted during the preferred work period of (insert dates identified in Section 3.4) unless an alternate time period is approved by the Oregon Department of Fish and Wildlife.

Maintain Flow

The biologically necessary flows shown in the following table shall be maintained real time within and downstream of the point of impact or the use may be regulated until the flows are available.

{copy table from Section 3.1, Question B}

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Maintain Passage

The permittee shall maintain adequate passage of native migratory fish at all times (ORS 509.610) and shall not construct, operate, or maintain any dam or artificial obstruction to fish passage across any waters of the state that are inhabited, or were historically inhabited, by native migratory fish (ORS 509.585).

Measurement Device

The permittee shall install, maintain, and operate a water use control and/or measuring device, as identified by OWRD. The device shall be installed, functional, and approved by the local Watermaster, prior to diversion of water.

Mitigation

The permittee shall comply with terms of the associated Mitigation Plan to compensate for detrimental impacts to fish, wildlife, and/or their habitat. The Mitigation Plan is fully incorporated into the requirements of this permit and may only be altered by written mutual agreement of all parties. The mitigation shall be legally protected and maintained for the life of the permit and subsequent certificate.

Passage

The permittee shall not construct, operate, or maintain any dam or artificial obstruction to fish passage across any waters of the state that are inhabited, or were historically inhabited, by native migratory fish (ORS 509.585) without obtaining approval for the artificial obstruction from the Oregon Department of Fish and Wildlife (ODFW).

The permittee shall submit a proposal for fish passage to ODFW or apply for a fish passage waiver or exemption. Approval of the proposed fish passage facility, waiver, or exemption shall be obtained prior to construction of any in-channel obstruction or prior to diversion of water that may create an artificial obstruction due to low flow. The permittee shall submit proof to ODFW that fish passage has been implemented per the plan, waiver, or exemption prior to diversion of water.

The permittee shall maintain adequate passage of native migratory fish at all times (ORS 509.610) as per the approved plan, waiver, or exemption. The permittee is hereby directed to schedule a consultation with an ODFW Fish Passage Coordinator.

Riparian

The permittee shall restore or enhance the riparian area per the approved Riparian Plan prior to diversion of water and maintain the riparian area for the life of the permit and subsequent certificate per the approved Riparian Plan.

Screen

The permittee shall install, maintain, and operate fish screening consistent with current Oregon Department of Fish and Wildlife (ODFW) standards or submit documentation that ODFW has determined fish screening is not necessary or is exempted. Fish screening is to prevent fish from entering the proposed diversion. The required screen is to be in place, functional, and approved in writing by ODFW prior to diversion of water. The water user shall operate and maintain the fish screen consistent with ODFW's operation and maintenance standards. The permittee is hereby directed to schedule a consultation with an ODFW Fish Screening Coordinator.

Section 9: ODFW's Review of the Mitigation Proposal

Because the mitigation is site- and species-specific, ODFW recommends written approval of the Proposal by ODFW prior to issuance of a Proposed Final Order. ODFW finds the following:

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ODFW **supports** the Mitigation Proposal with the following condition(s):

"Mitigation"

Site-specific condition(s): type here

Additional information:

A Fish Passage Waiver or Exemption has been granted for the proposed POD that fulfills the fish passage requirements for this use.

Comments: type here

ODFW **cannot support** the Mitigation Proposal because it is not consistent with the criteria in OAR 635-415.

The proposed mitigation is inconsistent with the Northwest Power and Conservation Council's Columbia River Basin Fish and Wildlife Program⁵, impairs essential habitat, or is otherwise detrimental to the protection and/or recovery of sensitive, threatened, and/or endangered fish species, non-listed fish species, or wildlife.

Habitat goals and standards not met: list here and explain why not met

ODFW Representative's Signature: _____ Date: type here

Name: type here

Phone: type here

Email: type here

⁵ Water Resources Department's document number 94-2

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Oregon DEQ Division 33 Limited License Review
Summary Sheet

Application Information

Applicant Name:	Jeld Wen, INC.	Application Number:	LL-1976
Basin & Sub-basin:	Klamath	Requested Water Amount:	0.5 cfs (224 gpm)
Nearest Surface Water:	Upper Klamath Lake	Nearest Receiving Waterbody:	Upper Klamath Lake
Proposed Use:	Industrial/Manufacturing	Requested Period of Use:	Year-Round from August 4 2024 for five years.

Division 33 Geographic Area

<input checked="" type="checkbox"/> Statewide	
<p>Statewide: Will the proposed use result in water quality impacts that will cause either "loss" or "net loss" of essential habitat of sensitive threatened or endangered (ST&E) fish species? (Note: the presence of ST&E fish species is determined by Oregon Department of Fish and Wildlife.)</p>	<p><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Insufficient data</p>

Recommended License Conditions

<p>1. Water Quality: All water use under this license shall comply with state and federal water quality laws. The licensee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards. Licensee is responsible for obtaining any necessary state and federal licenses.</p>
<p>2. Flow Restrictor: The licensee shall install a flow control valve on the diversion system to limit use to the licensed rate. The valve shall be in place, functional, and verified by the Certified Water Rights Examiner before a certificate is issued. The valve or a suitable replacement shall remain in place for the life of the water right.</p>
<p>3.</p>
<p>Mitigation Obligation <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes</p>
<p>Prior to issuance of a Proposed Final Order, the applicant shall submit a mitigation proposal that is of no less volume and rate than the licensed use. The proposal shall include water that is sourced upstream of the point of diversion or appropriation, or the uppermost point on the stream at which the potential for surface water interference occurs. If a surface water right is used for mitigation, it shall be transferred instream for the January 1 to December 31 time period and of similar water quality. The applicant should contact their OWRD caseworker to discuss flow mitigation options. Flow mitigation is site-specific, therefore DEQ recommends written approval of the mitigation proposal by DEQ prior to issuance of a proposed final order.</p>

Seasonal Limitations

Reason for limitation	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
TMDL: Critical period	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
WAB: 20% flow threshold exceeded	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other: Statewide temperature and dissolved oxygen critical periods	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Additional Reviewer comments <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
--

[Use this space to describe any of the following: reasoning to substantiate license conditions; examples of additional information that may allow or disallow the use; and why any variations to the standard Division 33 review process were necessary. Designate conditions related to Division 310 with an asterisk.]

PSI was found in Jeld-Wen's application for groundwater from well KLAM-11674 which is the same well proposed to be used if this license is approved. Thus, PSI is triggered between well KLAM-11674 and Upper Klamath Lake.

Application G-17983 from Jeld Wen Inc. proposes to use water from the same source and for the same purposes as LL-1976. It is recommended that the applicant either cancel their groundwater application (G-17983) or their limited license application (LL-1976).

Water is not available to support the proposed use and further reductions in surface water levels at Upper Klamath Lake and subsequent Klamath River will negatively impact water quality as outlined in the Upper Klamath TMDL.

Mitigation is required to offset the impacts of the use to water quality and ST&E species in Upper Klamath Lake and the Klamath River.

DEQ recommends cancellation of this license upon the approval of G-17983 by the department.

Interagency consultation: [Describe any substantial interagency consultation. Who was contacted and what was discussed?]

DEQ review prepared by: Cole Hendrickson

Date complete: 5/9/2024

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Antidegradation Policy:

The purpose of DEQ's Antidegradation Policy (OAR 340-041-0004(1)) is to guide decisions that affect water quality to prevent unnecessary further degradation from new or increased point and nonpoint sources of pollution, and to protect, maintain, and enhance existing surface water quality to ensure the full protection of all existing beneficial uses. Oregon's Antidegradation Policy allows exemptions and conditions for new or increased water use.

1. Temporary Use or Net Benefit

Does the applicant propose a temporary use in response to an emergency, a restoration activity that the DEQ has determined provides a net ecological benefit, or a temporary (lasting less than six months) use to protect human health and welfare, for which the applicant has demonstrated that they will minimize adverse effects to threatened and endangered species? No Yes

If yes, recommend approval of the application and identify conditions necessary to protect water quality for the habitat of ST&E fish species. You may skip to Question 7.

2. Outstanding Resource Water

Does the applicant propose withdrawing directly from an **Outstanding Resource Water** with critical habitat for ST&E fish species? No Yes

If yes, then prior to license issuance, the applicant must provide suitable flow mitigation. You may skip to question 7.

3. Water Quality Limited

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Is this source **Water Quality Limited** or a tributary to a water quality limited water body? Note: limit **OWRD** downstream review to 6th field HUC for parameters that diminished flow can affect (temperature, dissolved oxygen, pH, etc.). No Yes

Integrated Report 303(d) List Summary Table

Assessment Unit Name	Assessment Unit Description	Parameter	Status*	Beneficial Uses
Upper Klamath Lake	Lake/Reservoir Unit	Temperature – Numeric (Year-Round)	Category 5	Fish and Aquatic Life
		Sedimentation	Category 5	Fish and Aquatic Life
		Dissolved Oxygen (Year-Round)	Category 4A	Fish and Aquatic Life
		pH	Category 4A	Fish and Aquatic Life

*Integrated Report Category
Category 4 - Data indicate that at least one designated use is not supported, but a TMDL is not needed to address the pollutant
Category 4A - Clean-up plans (also called TMDLs) that will result in the waterbody meeting water quality standards and supporting its beneficial uses have been approved
Category 4B - Other pollution control requirements are expected to address pollutant of concern and will result in attainment of water quality standards
Category 4C - The impairment is caused by pollution, not a pollutant. For example, flow, or lack of flow, are not considered pollutants, but may be affecting the waterbody's beneficial uses
Category 5 - Data indicate a designated use is not supported or a water quality standard is not attained and a TMDL is needed. This category constitutes the Section 303(d) list that EPA will approve or disapprove under the Clean Water Act

Analysis: [If the answer to question 3 is yes, then describe how the use does or does not comply with existing state and federal water quality standards, and how the use may affect ST&E fish species habitat.]

Temperature

Increases in temperature adversely impact sensitive, threatened, and endangered fish. Fish require different temperature based on species and life history stage. Oregon's temperature limits are based on the most sensitive species and the life history stage of those species at the location and season of concern. Upper Klamath Lake does not meet Oregon's year-round stream temperature standards. Generally, water temperatures increase as flow decreases. Therefore, reducing flow in waterbodies that are connected to downstream temperature-impaired waterbodies, such as Upper Klamath Lake, could result in higher stream temperatures and stressed conditions for aquatic life, particularly during the summer months when stream flow is lowest. The critical warm period when stream conditions are most likely to exceed the year-round temperature standards is July 1 – September 30.

Sedimentation

While sediment is an essential part of healthy functioning stream systems, excessive sediment loads can have severe negative impacts on a stream ecosystem. Many fish species are adapted to high suspended sediment levels that occur for short periods of time, but longer exposure to high levels of suspended sediment can interfere with feeding behavior, damage gills, reduce available food, and reduce growth rates. Deposition and sedimentation (when sediment falls out of the water column and deposits on the streambed) can smother eggs and fry in the substrate and fill in pools within the stream channel (reducing or eliminating cold water refugia important to cold water aquatic life during periods of high water temperature). Because bacteria, nutrients and other chemical substances are often attached to sediment particles, excessive sediment loading can also increase nutrient and toxics concentrations and contribute to decreased dissolved oxygen in both the water column and the spawning gravels. A reduction in streamflow will lead to locally increased deposition and sedimentation. It will also result in an increased rate of evaporation in warm weather, which in turn can increase nutrient and toxic concentrations in the stream. This would result in the diminution of water quality for the habitat of sensitive, threatened, or endangered fish species.

Dissolved Oxygen

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Decreased dissolved oxygen levels adversely impact sensitive, threatened, and endangered fish. Oregon's dissolved oxygen limits are based on the most sensitive species and the life history stage of those species at the location and season of concern. Upper Klamath Lake does not meet Oregon's <year-round and/or spawning> dissolved oxygen standards. Reduced flows may increase water temperature and reduce surface area and turbulence, which can decrease dissolved oxygen. Therefore, reducing flow in waterbodies that are connected to downstream dissolved oxygen-impaired waterbodies, such as Upper Klamath Lake, could result in lower stream dissolved oxygen levels and stressed conditions for aquatic life, particularly during the summer months when stream flow is lowest. The critical warm period when stream conditions are most likely to exceed the year-round dissolved oxygen standards is July 1 – September 30.

pH

pH is a measure of how acidic or basic (alkaline) the water is. Water with a pH greater than 7 is alkaline, water with a pH of less than 7 is acidic. Every species of fish has adapted to a specific range of pH. Fish exposed to changes in pH outside their normal range can be stressed or even die. Stress leaves fish vulnerable to disease, degrading their health. Additionally, alkaline conditions can transform nitrogen in the water column into a more toxic form of ammonia that can poison fish. Withdrawals from the stream will reduce the stream's heat capacity and cause greater fluctuation in daytime and nighttime stream temperatures. When nutrients and sunlight are sufficiently present, higher stream temperatures lead to more algal growth. During the day, algae absorb carbon dioxide from the water for cell growth, raising pH. At night, photosynthesis stops and algae continue to respire, releasing carbon dioxide and lowering pH. This cycle creates diel fluctuations in pH. Additional withdrawals from a stream that is already impaired for pH will lead to larger diel fluctuations in pH. Fish and aquatic insects are sensitive to imbalances in pH. Low pH levels (below 5) may lead to death and high pH levels (9-14) can harm fish by denaturing cellular membranes. These pH imbalances result in the diminution of the habitat of sensitive, threatened, or endangered fish species.

Recommended Conditions: [Consider if water quality can be protected by limiting the rate and quantity of water used, period of use, or by including other license conditions.]

Water Quality

4. Total Maximum Daily Load Summary

Are there TMDLs established for parameters identified as being affected by flow modification? No Yes

Analysis: [List TMDL, identify the load allocation, and if flow modification is a contributing factor. Describe how the use does or does not comply with existing state and federal water quality standards and how the use may affect ST&E fish species habitat.]

Upper Klamath and Lost River Subbasins

Two TMDLs were established in 2019 for ammonia toxicity, chlorophyll-a, dissolved oxygen, pH, and temperature in the Upper Klamath and Lost River subbasins. These were established to address salmonid and federally endangered sucker fisheries concerns. Water quality impairments in tributaries and mainstem reaches throughout the Upper Klamath and Lost River subbasins have reduced the extent of spawning and rearing habitat for shortnose suckers, Lost River suckers, and redband trout. External nutrient loading in the Upper Klamath River and Lost River subbasins coupled with organic matter export from Upper Klamath Lake creates summertime ammonia, dissolved oxygen, and pH conditions that are stressful to salmonids and suckers. Elevated summertime stream temperatures (critical period June – September) attributed to sources in the Upper Klamath and Lost River subbasins result primarily from riparian vegetation disturbance. Reduction in stream surface shading (via decreased riparian vegetation height, width and/or density and increased channel width) increases the amount of solar radiation reaching the stream surface. Increases in temperature are also

directly related to extensive hydrologic modification and reduced stream flows. Additionally, inadequate streamflow and increased water temperature negatively impact dissolved oxygen and pH standards. Two TMDLs were established in 2019 for ammonia toxicity, chlorophyll-a, dissolved oxygen, pH, and temperature in the Upper Klamath and Lost River subbasins. These were established to address salmonid and federally endangered sucker fisheries concerns. Water quality impairments in tributaries and mainstem reaches throughout the Upper Klamath and Lost River subbasins have reduced the extent of spawning and rearing habitat for shortnose suckers, Lost River suckers, and redband trout. External nutrient loading in the Upper Klamath River and Lost River subbasins coupled with organic matter export from Upper Klamath Lake creates summertime ammonia, dissolved oxygen, and pH conditions that are stressful to salmonids and suckers. Elevated summertime stream temperatures (critical period June – September) attributed to sources in the Upper Klamath and Lost River subbasins result primarily from riparian vegetation disturbance. Reduction in stream surface shading (via decreased riparian vegetation height, width and/or density and increased channel width) increases the amount of solar radiation reaching the stream surface. Increases in temperature are also directly related to extensive hydrologic modification and reduced stream flows. Additionally, inadequate streamflow and increased water temperature negatively impact dissolved oxygen and pH standards.

Recommended Conditions: [Consider if water quality can be protected by limiting the rate and quantity of water used, period of use, or by including other license conditions.]

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5. Cumulative Withdrawals Effects

Is it likely that the proposed activity, together with existing withdrawals in the OWRD's Water Availability Basin (WAB), will lower water quality and impair aquatic life? No Yes

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Water Availability and Cumulative Impacts Summary Table

Percent of natural flow = (consumptive use/natural stream flow)*100. See Appendix for additional instructions.

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Watershed ID	Exceedance Level	Month	Natural Stream Flow	Consumptive Use	Expected Stream Flow	Reserved Stream Flows	Instream Requirement	Net Water Available	Percent of Flow
31420305	50	JAN	2120	576	1540	0	60	1480	27.16981
31420305	50	FEB	2210	972	1240	0	60	1180	43.9819
31420305	50	MAR	2680	1040	1640	0	80	1560	38.80597
31420305	50	APR	3210	1120	2090	0	80	2010	34.89097
31420305	50	MAY	3120	1280	1840	0	83	1750	41.02564
31420305	50	JUN	2740	1510	1230	0	74	1160	55.10949
31420305	50	JUL	1880	1370	512	0	20	492	72.87234
31420305	50	AUG	1310	1060	249	0	40	209	80.91603
31420305	50	SEP	1140	827	313	0	30	283	72.54386
31420305	50	OCT	1240	325	915	0	30	885	26.20968
31420305	50	NOV	1470	333	1140	0	30	1110	22.65306
31420305	50	DEC	1760	569	1190	0	50	1140	32.32955

Monthly flow in Cubic Feet per Second (CFS). Annual flow in Acre Feet (AF). Highlight months that exceed 20% of percent of flow.

6. Flow Modification Compliance with State and Federal Water Quality Standards

Based on responses to questions 3, 4, and 5, is the use in compliance with state and federal water quality standards or can compliance with state and federal water quality standards be assured, and ST&E habitat loss prevented through flow mitigation and/or by imposing license condition(s)?

No Yes

Recommended Conditions: [If water quality can be protected by modifying or limiting the amount diverted, period of use, or other license conditions, then select appropriate condition from the conditions list.]

Mitigation, Flow Restrictor

7. Compliance with other State and Federal Water Quality Standards

ORS 468B.025 prohibits pollution of waters of the state. Are there additional water quality impairments that would result from this proposed used by degrading surface water or groundwater quality?

No Yes

If water quality can be protected by applying license conditions, then select all appropriate conditions from the standardized menu of conditions.

Recommended conditions: [List conditions]

Mitigation

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PRE-PROPOSED FINAL ORDER ACTIONS

DEQ recommends that the applicant provide suitable replacement water as mitigation for anticipated impacts to water quality and more specifically the habitat of sensitive, threatened, and endangered fish species. Additional mitigation may be required from other Interagency Review Team members (for example: OWRD may require mitigation for periods when water is not available). Surface water flow mitigation is unlikely to provide the same benefit that groundwater can provide to gaining stream reaches. However, if groundwater mitigation is unavailable within the same aquifer, surface water mitigation may provide suitable mitigation.

Flow Mitigation Obligation:

Prior to issuance of a Proposed Final Order, the applicant shall submit a mitigation proposal that is of no less volume and rate than the licensed use. The proposal shall include water that is sourced upstream of the point of diversion or appropriation, or the uppermost point on the stream at which the potential for surface water interference occurs. If a surface water right is used for mitigation, it shall be instream for the *month - month time period* and of similar water quality. The applicant should contact their OWRD caseworker to discuss flow mitigation options.

Riparian: If the riparian area is disturbed in the process of developing, modifying or repairing a point of diversion under this water use license, the licensee shall be responsible for restoration and enhancement of such riparian area in accordance with the Oregon Department of Fish and Wildlife's Habitat Mitigation Policy described in Oregon Administrative Rule OAR Chapter 635-415. Prior to development, modification or repairs at the point of diversion, the licensee shall submit, to the Oregon Water Resources Department, either a Riparian Mitigation Plan approved in writing by Oregon Department of Fish and Wildlife (ODFW) or a written declaration from ODFW that riparian mitigation is not necessary. The licensee shall maintain the riparian area for the life of the license and subsequent certificate per the approved Riparian Mitigation Plan. The licensee is hereby directed to contact the local Oregon Department of Fish and Wildlife Fish Biologist prior to development of the point of diversion.

Water Storage Construction: The applicant shall locate the reservoir outside of the stream's natural channel. *identify waterbody and set back to prevent stream capture and justification for distance selected.*

(Note to reviewer: The 1200C license requires a 50-foot setback, which is cited from the National General Construction License OAR-660-023-0090(5). Requiring the storage reservoir to be outside of the mapped 100 year floodway may also be a protective buffer.)

Construction Activities: 1200-C NPDES Stormwater Construction license coverage is required from DEQ or Agent for construction activities (clearing, grading, excavation, grubbing, stumping, demolition, staging, stockpiling and other land disturbing activities) that will disturb one or more acres, or that will disturb less than one acre of land but is part of a common plan of development or sale that will ultimately disturb one or more acres of land and have the potential to discharge to surface waters or to a conveyance system that leads to surface waters of the state.

In-Water or Riparian Construction: For in-water or riparian construction, licensee may be required to obtain additional licenses from the Oregon Department of State Lands, the U.S. Army Corps of Engineers, and the DEQ Section 401 certification program prior to construction. The applicant must contact these agencies to confirm requirements.

Herbicide Applications: When herbicide application is within three feet of water, the licensee is responsible for ensuring that herbicide application laws are met, and that they obtain from DEQ any necessary pesticide application licenses, including the 2300-A Pesticide General License or the 2000-J NPDES General License. Polluted return flows are not allowed to enter waters of the state per ORS 468B.025(1).

STANDARIZED MENU OF CONDITIONS

Water Quality: All water use under this license shall comply with state and federal water quality laws. The licensee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards. Licensee is responsible for obtaining any necessary state and federal licenses.

Agricultural Water Quality Management Area Rules: The licensee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The licensee shall protect riparian areas, including through irrigation practices and the management of any livestock, allowing site capable vegetation to establish and grow along streams, while providing the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff.

Flow Restrictor: The licensee shall install a flow control valve on the diversion system to limit use to the licensed rate. The valve shall be in place, functional, and verified by the Certified Water Rights Examiner before a certificate is issued. The valve or a suitable replacement shall remain in place for the life of the water right.

Limit Rate: Water withdrawal shall be limited to *Enter CFS or AF for the defined period, or a month by month rate or volume.*

Limit Period of Use: Water use shall be limited to the period: *start date through end date.*

(Note to reviewer: Do not split the irrigation season. Require mitigation if water is not available during the requested time period.)

Limit Diversion: The licensee shall not divert water under this water use license unless streamflow in the *waterbody name* is at or above *CFS* cubic foot per second, as determined at Gaging Station ID _____.

Off-Channel Stored Water Releases: The licensee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State Engineer to prevent dam failure.

On-Channel Reservoir: The licensee shall design and operate the water storage facility such that all waters within and below the reservoir meet water quality criteria. The licensee shall develop a reservoir operations plan that details how water quality criteria and standards will be met. A Certified Water Rights Examiner shall verify that the reservoir operations are consistent with the plan before a certificate is issued. The reservoir operator shall maintain a copy of the plan and make it available for review upon request.

Restrict Reservoir Release: To prevent pollution downstream, the licensee shall not release water from the reservoir when the flow at Gaging Station ID _____ (*gage name*) is below the Mean Daily Discharge of *CFS* (discharge which was equaled or exceeded for 90% percent of the time) except when the release is directed by the State Engineer to prevent dam failure.

Live Flow: Once the allocated volume has been stored, licensee shall pass all live flow downstream at a rate equal to inflow, using methods that protect instream water quality.

Lining: The licensee shall line the reservoir with *include material or allowable infiltration rate* to minimize seepage and protect groundwater quality per Oregon Administrative Rule 340-040. The liner is to be in place, inspected,

and approved by the Certified Water Rights examiner prior to storage of water.* If the liner fails, the water user shall replace it within one calendar year.

Site-Specific Condition: The licensee shall

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* OAR 690-410-0010(2)(a), OAR 690-310-0120, OAR 690-310-0140

Appendix: General Overview, Instructions for Water Availability Analysis, and Process Flow Chart**General Overview**

The purpose of OAR Chapter 690, Division 33 is to aid the Oregon Water Resources Department (OWRD) in determining whether a proposed use will impair or be detrimental to the public interest with regard to listed sensitive, threatened, or endangered (ST&E) fish species. Oregon's stream temperature, dissolved oxygen (DO), pH and several other water quality standards are based on the life cycle needs of salmonids and other resident fish and aquatic life. Exceeding the standards can disrupt the life cycle of a ST&E fish species and may cause death. In addition, OWRD must consider water quality impacts as part of a public interest review, OAR 690-310-0120. Water quality impacts and conditions unrelated to ST&E species should be noted as "Division 310" in the recommendations to OWRD. The DEQ's Water Right Application Review Procedures document contains a full description of the review process.

The two main categories of Division 33 reviews are based on the geographic distribution of ST&E fish species:

- **For Proposed Uses in the Columbia River Basin**, reviews must determine whether a proposed use complies with existing state and federal water quality standards. Upper Columbia applications specifically require applicants to provide evidence that the proposed use complies with existing state and federal water quality standards. Geographic scope: Columbia River Basin (includes all waters that ultimately drain into the Columbia River).
- **For Proposed Uses Statewide**, review is conducted under the "Statewide review" procedure. Statewide reviews must determine whether a proposed use may affect ST&E fish species habitat. The statewide review procedure is intended to identify license conditions that can prevent the "loss" or "net loss" of essential habitat of ST&E fish species. When license conditions cannot be identified that meet this standard, then the DEQ recommends denial of the license. Geographic scope: all areas outside the Columbia River Basin where OWRD determines ST&E fish species are present.

Instructions for Populating the Water Availability Summary Table using data from OWRD's WAB (Section 5)

- Open OWRD's Water Availability Reporting System.
- Search for the water availability basin of interest. Select 50% exceedance. The 50% exceedance stream flow is the stream flow that occurs at least half of the time.
- The water availability analysis will display a nested list of watersheds that contain the POD. Select the highest nesting order WAB that contains the POD.
- Download to an Excel spreadsheet. Percent of flow is calculated using this equation:

$$\text{Percent of Flow} = \frac{\text{Consumptive Use}}{\text{Natural Stream Flow}} * 100$$

You may choose to add the proposed rate (or storage amount) to the consumptive use.

Instructions for Water Availability Analysis

To complete Section 6, review and consider the cumulative impact of consumptive withdrawals using the **OWRD WAB**. All water withdrawals and the following factors should be considered when conducting a water availability analysis.

- **Instream Flow:** Consider the percent of natural flow removed from the stream in each month (see right-most column in Water Availability and Cumulative Impacts Summary Table). Based on best professional judgment, evaluate if the cumulative withdrawal is likely to cause impairment to aquatic life or water quality. Water quality standards are established to protect aquatic life. In scientific literature, researchers have identified ecological harm occurring when flows are reduced by **>6-35% of daily flow**¹. Consider the seasonality of any listings and season of withdrawal to determine impact for each month of the year.
- **Antidegradation:** Rule 340-041-0004 applies: withdrawals cannot cumulatively increase a waterbody's temperature by more than 0.5 degrees Fahrenheit or cause a 0.1 mg/l decrease in dissolved oxygen from the upstream end of a stream reach to the downstream end of the reach so long as it has no adverse effects on threatened and endangered species. See OAR [340-041-0004\(3\)-\(5\)](#) for a description in rule of activities that do not result in lowering of water quality.
- **Flow modification:** Consider if cumulative withdrawals are contributing to flow modification and a likely limiting factor in the waterbody at certain times of the year. Temperature and dissolved oxygen are flow-related parameters. When streamflow is reduced, assimilative capacity is reduced. As a waterbody heats up, dissolved oxygen concentrations decline. Reduced stream flows (including groundwater inputs to streamflow), exacerbate temperature and/or dissolved oxygen impairments.
- **Temperature:** Increases in temperature or a reduction in dissolved oxygen adversely impacts ST&E fish. Fish require different temperature and concentrations of dissolved oxygen based on species and life history stage. Oregon's temperature and dissolved oxygen limits are based on the most sensitive species and the life history stage of those species at the location and season of concern. Additional heat or reduction in dissolved oxygen concentrations will further impact these species habitat. Reduced flows can also increase the concentrations of phosphorous, bacteria, pesticides and metals.

Instructions for Calculating "Limit Diversion" Rate

This condition is selected to limit withdrawals once the cumulative withdrawals in the watershed have exceeded the protective threshold of 20 percent and/or the ISWR is not fully protective of aquatic life. A different value can be selected, but the reviewer should state why a particular percent was selected.

"Natural stream flow" is obtained from OWRD's Water Availability Reporting System. The condition is applied on a monthly timeframe based on OWRD's data.

"Natural stream flow" – (percent of flow * "natural stream flow") = Expected Stream Flow

The applicant would have to stop using when instream flows drop below the Expected Stream Flow.

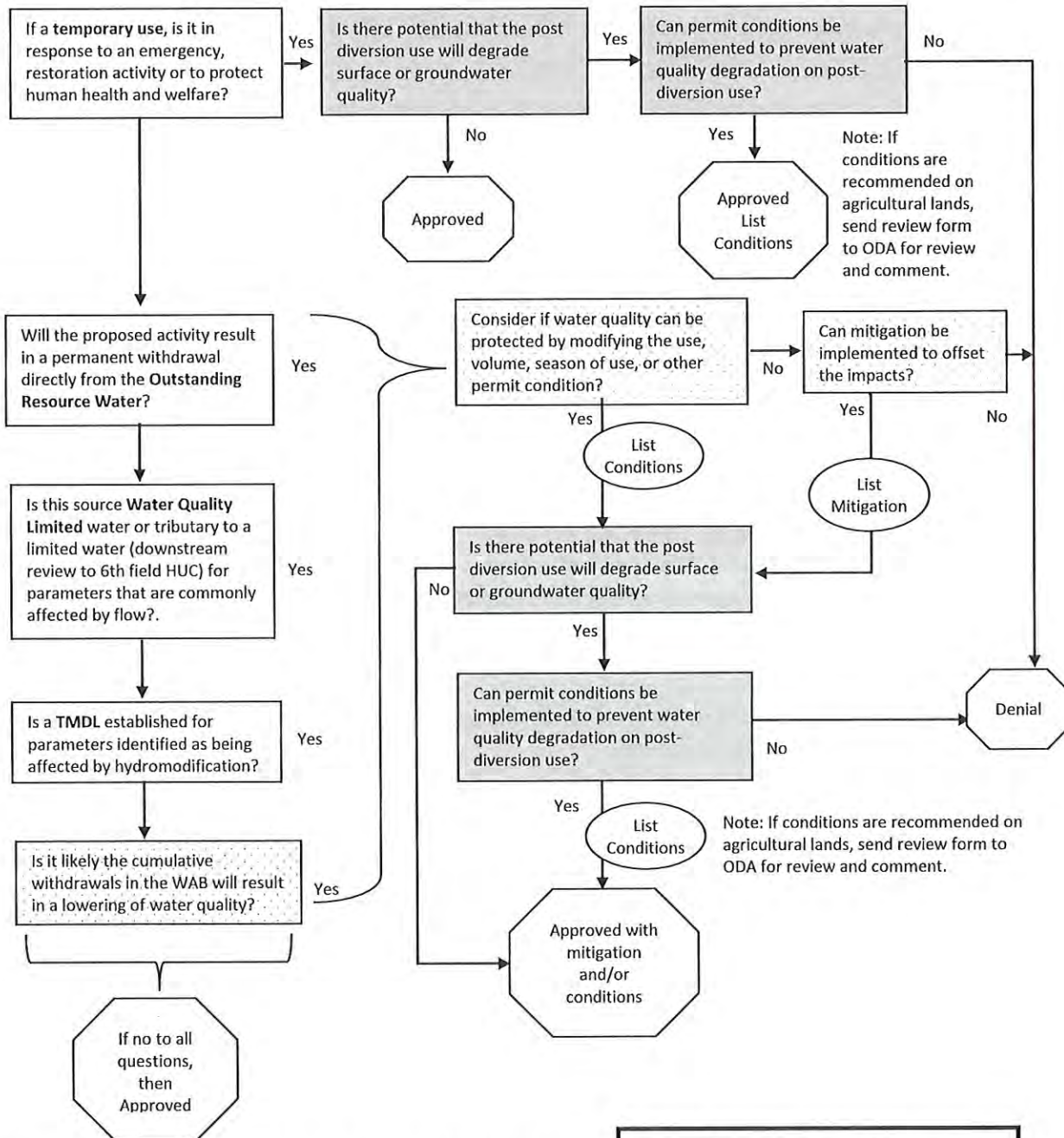
Example:

Natural stream flow for a particular month = 1200 CFS

1200 CFS – (.2 * 1200 CFS) = 960 CFS

¹ Richter BD, Davis MM, Apse C, Konrad C. 2011. *Short Communication, A Presumptive Standard For Environmental Flow Protection*. River Research and Applications. Published online in Wiley Online Library (wileyonlinelibrary.com), DOI: 10.002/rra.1551

DEQ Water Right Review Flow Chart



Each yes will need to be explained by how the use does not comply with existing state and federal water quality standards and how the use may affect sensitive, threatened or endangered fish species habitat.

Note: Review based on DEQ's anti-degradation rule (340-041-0004).

	Best Professional Judgment and Data
	Data
	Best Professional Judgment