



Water Right Application Initial Review

August 23, 2024

OREGON DEPARTMENT OF FISH AND WILDLIFE

ATTN: SPENCER SAWASKE

4034 FAIRVIEW INDUSTRIAL DR SE

SALEM OR 97302

Reference: Application IS-89593

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

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

1. The application proposes the instream protection of water in Clear Creek, from river mile 2.8 to mouth river mile 0.0, tributary to Gales Creek, for the following public use: conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat (Oregon Revised Statute (ORS) 537.332(5)). The requested rate in cubic feet per second (CFS) by month (or half-month) is shown below.

Amount of water requested for instream use (CFS):

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
17.0	17.0	17.0	17.0	17.0	10.0/6.0	3.0	3.0	1.7	3.0	5.0/17.0	17.0

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The proposed reach for this instream water right application is in the Tualatin River Subbasin of the Willamette Basin.
4. Clear Creek west of the north-south line between Township 1 North, Ranges 4 and 5 West is withdrawn from further appropriation by order dated March 2, 1936 (OAR 690-502-0130(1)(a)(F)); however, instream use for waters of Clear Creek east from the north-south line between Township

1 North, Ranges 4 and 5 West to mouth river mile 0.0 is allowed under the Willamette Basin Program (OAR 690-502-0130(1)(b)).

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

Estimated Average Natural Flow (CFS):

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
41.5	57.9	36.7	21.1	16.6	9.99	5.19	4.23	3.96	4.1	13.7	41.4

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

Summary of Preliminary Determinations											
<p>The instream protection of water in Clear Creek, from the north-south line between Township 1 North, Ranges 4 and 5 West to mouth river mile 0.0, tributary to Gales Creek, for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat may be allowable; however, it is limited to the lesser of the requested rate or the estimated average natural flow, as shown below, and is contingent upon submission of the <u>Additional Information Required</u>.</p>											
<p>Amount allowable by month (or half-month) for instream use (CFS):</p>											
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
17.0	17.0	17.0	17.0	16.6	9.99/6.0	3.0	3.0	1.7	3.0	5.0/13.7	17.0

Additional Information Required:

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following:

- A. A new map identifying the portion of Clear Creek not withdrawn under OAR 690-502-0130(1)(a)(F), and
- B. Updated application page(s) identifying the portion of Clear Creek not withdrawn under OAR 690-502-0130(1)(a)(F) by river mile.

Please submit this information no later than September 26, 2024. If you are unable to submit the information listed above by this date, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time is needed and why you

need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

Public Comment & Further Review:

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

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

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

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

1. For purposes of water distribution, this instream right shall not have priority over human or livestock consumption.
2. The instream flow allocated pursuant to this water right is not in addition to other instream flows created by a prior water right or designated minimum perennial stream flow.
3. The flows are to be measured at the lower end of the stream reach to protect necessary flows throughout the reach.

For Further Information:

Feel free to contact me at Lucinda.R.Vranizan@water.oregon.gov or 971-375-2256 if you have any questions regarding the contents of this letter or the application. Please include the application number in all correspondence. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0900. When corresponding by mail, please use this address: Lucinda Vranizan, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Lucinda Vranizan

Lucinda Vranizan
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Fact Sheet

IS-89593
Proposed to Approve

APPLICATION FACT SHEET

Application File Number: IS-89593

Applicant: OREGON DEPARTMENT OF FISH AND WILDLIFE

County: WASHINGTON

Watermaster: JAKE CONSTANS, #18, NWR

Priority Date: JULY 10, 2024

Source: CLEAR CREEK, FROM RIVER MILE 2.8 TO MOUTH RIVER MILE 0.0, TRIBUTARY TO GALES CREEK

Purpose or Use: INSTREAM USE

Period of Use and Rate (CFS):

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
17.0	17.0	17.0	17.0	17.0	10.0/6.0	3.0	3.0	1.7	3.0	5.0/17.0	17.0

Basin Name & Number: WILLAMETTE, #2

WAB: GALES CR > TUALATIN R - AT MOUTH

PUBLIC NOTICE DATE: August 27, 2024

14 DAY STOP PROCESSING DEADLINE DATE: September 6, 2024

30 DAY COMMENT DEADLINE DATE: September 26, 2024