LL-1941

LL-1941

HiTech Minerals, Inc.

		DATE		DATE
NAME Attn: Brett Marsh	ISSUED	8-8-2023	EXPIRES	10-31-2027
ADDRESS 241 Ridge St, Suite 240 Reno, NV 89501	DENIED			
	WITHDRAWN			
PHONE 623-570-3359				

DATE	FEES PAID	RECEIPT #
9-16-2022	$280.00	139140

FEES REFUNDED

Agent – Justin Fike
775-829-2245 / 775-378-8901

PUBLIC NOTICE DATE 9-20-2022 AVAILABLE FOR ISSUANCE 10-5-2022

AMOUNT 75.0 GPM (0.167cfs)

USE Road Construction/Mineral Exploration Drilling

DURATION Mar-Nov 11-1-2022 through 10-31-2027

SOURCE A Well (Proposed)

P.O.D. LOCATED T41S, R40E, sec. 9, SESW WM.

COUNTY Malheur

WATERMASTER Jerod Hoshaw #9

ODFW Eastern

DEQ Owyhee

RELATED FILES

mfb 9-19-2022

Oregon Water Resources Department

Final Order
Limited License Application LL-1941

OREGON WATER RESOURCES DEPARTMENT

Appeal Rights

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Requested Water Use

Applicant: HITECH MINERALS, INC.

Date Submitted: SEPTEMBER 16, 2022

Amount: 75 GALLONS PER MINUTE (0.167 CUBIC FOOT PER SECOND (CFS)) UP TO 41,250 GALLONS PER DAY

Source: A WELL (PROPOSED)

Use: ROAD CONSTRUCTION OR MAINTENANCE (DUST ABATEMENT AT DRILLING PADS/ACCESS ROADS) AND MINERAL EXPLORATION DRILLING WATER SUPPLY

Duration: MARCH 1 THROUGH NOVEMBER 30 OF EACH YEAR; FROM LIMITED LICENSE ISSUE DATE THROUGH OCTOBER 31, 2027

County: MALHEUR COUNTY

Well Location: 41.00S-40.00E-9 SE SW; LATITUDE: 42.020578 / LONGITUDE: -118.035543 THE WELL SHALL BE DRILLED IN A LOCATION CONSISTENT WITH THE LIMITED LICENSE MAP SUBMITTED TO THE DEPARTMENT

Authorities

The Department may approve a limited license pursuant to its authority under ORS 537.143, 537.144 and OAR 690-340-0030.

ORS 537.143(2) authorizes the Director to revoke the right to use water under a limited license if it causes injury to any water right or a minimum perennial streamflow.

A limited license will not be issued for more than five consecutive years for the same use, as directed by ORS 537.143(8).

Findings of Fact

1. The forms, fees, and map have been submitted, as required by OAR 690-340-0030(1).

2. On September 20, 2022, the Department provided public notice of the application, as required by OAR 690-340-0030(2). The Department re-noticed the application on June 27, 2023, to correctly identify the proposed uses.

3. The Department has received public comments related to the possible issuance of the limited license. Comments described concerns about Lahontan Cutthroat Trout; drought; lack of data; impacts to streamflow, the environment, and wildlife; water quality; water availability; and cultural resources. Many of these concerns assume that the proposed groundwater use will affect the quality and quantity of surface water flows. The Department determined that the proposed use does not have the potential for substantial interference with surface water sources. Some comments expressed concern about impacts to the groundwater resource. The authorization of the limited license, as conditioned below, will satisfactorily address the issues raised in those comments.

4. This limited license request is limited to an area within a single drainage basin, as required by OAR 690-340-0030(3).

5. The Department has determined that the proposed source has not been withdrawn from further appropriation per ORS 538.200.

6. As part of its review to determine groundwater availability, the Department has determined that groundwater is not over appropriated, and is available for the requested use. The proposed use will, if properly conditioned, avoid injury to existing groundwater rights. The Department has stipulated conditions pertaining to well construction, measurement and reporting, water level reporting, and groundwater production limitations. A copy of this review is in the file.

7. Pursuant to OAR 690-340-0030(4) and (5), conditions have been added with regard to notice and water-use measurement.

8. The Department has determined that the source of water and the proposed use are located on federal lands and therefore, land use approval by a local government is not required.

Conclusions of Law

The proposed water use will not impair or be detrimental to the public interest pursuant to OAR 690-340-0030(2), as limited in the order below.

Order

Therefore, pursuant to ORS 537.143, ORS 537.144, and OAR 690-340-0030, Application LL-1941 is approved as conditioned below.

1. The authorized use of water under this limited license is as follows:

Amount: 75 GPM (0.167 CFS) UP TO 41,250 GALLONS PER DAY

Source: A WELL (PROPOSED)

Use: ROAD CONSTRUCTION OR MAINTENANCE (DUST ABATEMENT AT DRILLING PADS/ACCESS ROADS) AND MINERAL EXPLORATION DRILLING WATER SUPPLY

Duration: MARCH 1 THROUGH NOVEMBER 30 OF EACH YEAR; FROM LIMITED LICENSE ISSUE DATE THROUGH OCTOBER 31, 2027

2. The licensee shall give notice to the Watermaster in the district where use is to occur not less than 15 days or more than 60 days in advance of using the water under the limited license. The notice shall include the location of the diversion, the quantity of water to be diverted, and the intended use and place of use. In the case of this application, this order serves as the notice described above.

3. Before water use may begin under this limited license, the licensee shall install a totalizing flow meter at each point of appropriation. The totalizing flow meter must be installed and maintained in good working order.

4. The licensee shall maintain a record of all water use, including the total number of hours of pumping, the total quantity pumped, and the categories of beneficial use to which the water is applied. During the period of the limited license, the record of use shall be submitted to the Department upon request.

5. Groundwater production shall only be allowed from the Volcanic Rock Groundwater Reservoir between approximately 400 feet and 600 feet below land surface.

6. Construction of the proposed well shall be completed in a manner that protects ground water resources as required under OAR 690-200 through 690-240. During construction of the well, specific attention should be paid to ensure sealing requirements are met and that the well does not commingle aquifers.

7. During construction of the well, cuttings shall be collected at 10-foot intervals and at changes in lithology, to be submitted to the Department whenever possible.

8. The water level within the well shall be measured and reported to the Department as water level below land surface before use of the well commences for that year.

9. The Director may revoke the right to use water for any reason described in ORS 537.143(2), and OAR 690-340-0030(6). Such revocation may be prompted by field regulatory activities or by any other information.

10. Use of water under a limited license shall not have priority over any water right exercised according to a permit or certificate, and shall be subordinate to all other authorized uses that rely upon the same source.

11. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

12. A copy of this limited license shall be kept at the place of use, and be made available for inspection by the Watermaster or other state authority.

NOTE: This water-use authorization is temporary. Applicants are advised that issuance of this final order does not guarantee that any permit for the authorized use will be issued in the future; any investments should be made with that in mind.

Issued August 8, 2023

Katherine Ratcliffe

Katherine Ratcliffe, Water Rights Section Manager, *for*
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department

cc: Jered L. Hoshaw, District 9 Watermaster
Eastern Region, ODFW
Owyhee, DEQ
Justin Fike, Agent, McGinley & Associates, Inc. – 6995 Sierra Center Parkway, Reno, NV 89511
Marisa Meyer, U.S. Fish and Wildlife Service - marisa_meyer@fws.gov
Katie Fite, Wildlands Defense - katie@wildlandsdefense.org
Jaimi Wilkinson, GJ Livestock LLC - gjbeef@outlook.com
Randall Sinnott - Randall.sinnott@gmail.com
Carolyn Hintz - sackettandjetta@hotmail.com
Cale Christi - cale.austin@gmail.com
Will C. Crawford - willnpatty@comcast.net
Anne White, Oregon Natural Desert Association - anne@onda.org
Lisa Brown, WaterWatch of Oregon - lisa@waterwatch.org
Siskiyou Rising Tide - sorisingtide@gmail.com
CJ Callao, People of Red Mountain - cjcallao@hotmail.com
Ka'ila Farrell-Smith - kaila@kailafarrellsmith.com
Max Wilbert - max@maxwilbert.org
Surface Water Section
File

BJORK Mary F * WRD

Current Addresses

From: BJORK Mary F * WRD
Sent: Wednesday, April 26, 2023 9:13 AM
To: Justin Fike
Cc: BJORK Mary F * WRD
Subject: RE: LL 1941, Change of Address Notification

Hi Justin,

Thank you for this current contact information. Our records and data base have been updated for LL-1941 to reflect your request.

Best Regards,

Mary F. Bjork
Water Rights Program Analyst
Oregon Water Resources Department
725 Summer St NE, Suite A, Salem OR 97301 | Cell 503-979-9895

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From: Justin Fike <JFike@teamues.com>
Sent: Wednesday, April 19, 2023 10:59 AM
To: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Subject: LL 1941, Change of Address Notification

Hi Mary,

Addresses originally submitted with the LL application have changed. Please remit all mail correspondence to:

Agent:
Justin Fike
McGinley & Associates, Inc.
6995 Sierra Center Parkway
Reno, NV 89511

Applicant:
HiTech Minerals Inc.
A Jindalee Resources Limited Company
241 Ridge Street., Suite 210
Reno, NV 89501

Attention:
Brett Marsh
HiTech Minerals Inc.
A Jindalee Resources Limited Company
241 Ridge Street., Suite 210

Reno, NV 89501

Please include my updated email address on all electronic correspondence. Updated address:

jfike@teamues.com

Let me know if you need anything else.

Thank you!

Justin Fike
UES/McGinley & Associates, Inc.
Cell: 775-378-8901

Coming in the Summer of 2023, McGinley & Associates will begin doing business as UES! McGinley joined UES in June 2021 and starting in Summer 2023, we will retire the McGinley name. We will have the same great team you know and trust, just with a new name.

*Our @mcgin.com email addresses will continue to receive incoming mail, but our outgoing communications will now be from our new @teamues.com addresses.

BJORK Mary F * WRD

From: RATCLIFFE Katie S * WRD
Sent: Friday, August 4, 2023 3:58 PM
To: BJORK Mary F * WRD
Cc: FRENCH Dwight W * WRD
Subject: RE: Katie Review Request LL-1941 (HITECH MINERALS, INC.)

Thanks Mary. The order is signed and dated for this coming Tuesday. As a reminder, I'll be on PTO Monday and then Tuesday morning, so if you need anything between now and then, please reach out to Dwight.

Katie Ratcliffe
Water Rights Section Manager
Oregon Water Resources Department
Phone: 971-338-8105 (work cell)
katie.s.ratcliffe@water.oregon.gov

From: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Sent: Friday, August 4, 2023 2:02 PM
To: RATCLIFFE Katie S * WRD <Katie.S.RATCLIFFE@water.oregon.gov>
Cc: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Subject: FW: Katie Review Request LL-1941 (HITECH MINERALS, INC.)

Hi Katie,

I spent some time in the office today making sure that all of the comments received were printed and available in the file folder, and that the file contents are organized.

Please review the revised draft final order to approve LL-1941 at S:\groups\wr\apps\LL\1941 (HiTech Minerals, Inc.)\1941-ord-license-DRAFT-8-4-2023.docm.

Revisions from the previous draft are noted in tracked changes.

Thanks so much!

Mary F. Bjork
Water Rights Program Analyst
725 Summer St NE, Suite A, Salem OR 97301 | Phone 503-979-9895

From: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Sent: Thursday, August 3, 2023 8:07 AM
To: RATCLIFFE Katie S * WRD <Katie.S.RATCLIFFE@water.oregon.gov>
Cc: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Subject: RE: Katie Review Request LL-1941 (HITECH MINERALS, INC.)

Hi Katie,

Thanks so much for your help on FOF 3 and 7! I look forward to seeing everyone this afternoon.

Mary F. Bjork
Water Rights Program Analyst
Oregon Water Resources Department
725 Summer St NE, Suite A, Salem OR 97301 | Cell 503-979-9895

From: RATCLIFFE Katie S * WRD <Katie.S.RATCLIFFE@water.oregon.gov>
Sent: Wednesday, August 02, 2023 5:23 PM
To: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Subject: RE: Katie Review Request LL-1941 (HITECH MINERALS, INC.)

Thanks Mary; good work. I modified FOF 3 and 7 to move the explanation from FOF 7 up to FOF 3 and to expand upon that explanation. Annette invited Phil M. and Justin to tomorrow's meeting so I will share the current draft with everyone.

Katie Ratcliffe
Water Rights Section Manager
Oregon Water Resources Department
Phone: 971-338-8105 (work cell)
katie.s.ratcliffe@water.oregon.gov

From: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Sent: Tuesday, July 25, 2023 2:22 PM
To: RATCLIFFE Katie S * WRD <Katie.S.RATCLIFFE@water.oregon.gov>
Cc: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Subject: Katie Review Request LL-1941 (HITECH MINERALS, INC.)

Hi Katie,

Please review the draft final order to approve LL-1941, in the name of HiTech Minerals, Inc., for Road Construction & Mineral Exploration Drilling Water Supply from a Proposed Well.

S:\groups\wr\apps\LL\1941 (HiTech Minerals, Inc.)\1941-ord-license-DRAFT-7-25-2023.docm

Thirteen public comments were received as seen on the attached spreadsheet. I'm also attaching my checklist and the groundwater review.

Thanks so much for your review!

Mary F. Bjork
Water Rights Program Analyst
Oregon Water Resources Department
725 Summer St NE, Suite A, Salem OR 97301 | Cell 503-979-9895

OREGON WATER RESOURCES DEPARTMENT

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Applicant:	HiTech Minerals, Inc., Attn: Brett Marsh; Agent: Justin Fike	App. #:	LL-1941

Limited License Completeness Checklist

Minimum Requirements (OAR 690-340-0030) (ORS 537.143)

Received Date:	9-16-2022	POD TRSQQ:	T41S, R40E, Section 9, SESW
Public Notice Date:	9-20-2022 RE-NOTICED ON 6/27/2023		
Earliest Issue Date	10-5-2022 NEW EARLIEST ISSUANCE DATE 7/12/2023	POU TRSQQ:	SEE MAP
WR Type for Wris Entry (GW, SW or ST)	GW		
Source:	A Well (proposed)		
Tributary:	Cherokee Creek		
Amount:	75 gpm (0.167 cfs)		
Duration:	Mar-Nov; 11-1-2022 through 10-31-2027	Watermaster:	Jered Hoshaw #9
County:	Malheur	ODFW:	WRD.EastRegion@odfw.oregon.gov
Basin:	Owyhee	DEQ:	Owyhee@deq.state.or.us

- ☑ **Applicant/Organization Name, Mailing Address, Telephone Number, and Contact Person.** *Signature in ink.*
- ☑ **Source** listed?
- ☑ **If source is groundwater...**are well log(s) or sufficient information for the Department to determine aquifer, well depth, well seal, open interval, etc. included? Was the intended aquifer identified? If for multiple wells, each map location shall be clearly tied to a well log. **PROPOSED WELL**
- ☑ **Proposed use of the water** — is each proposed use identified? **Road Construction or maintenance & Mineral Exploration drilling water supply**
- ☐ **N/A - If source is stored water** — Is there a contract for delivery of stored water? Must have a copy.
- ☐ **N/A - If use is supplemental** — is the primary water right listed?
- ☑ **Amount of water** — from each source listed in GPM, CFS or AF?
- ☑ **Acreage** proposed, if applicable. **AREA OF USE IDENTIFIED OVER MULTIPLE TOWNSHIPS**
- ☑ **Duration of Limited License** being requested by applicant.
- ☑ **Project schedule** — Date when water use will start and date when water use will be completed
- ☑ **Is the application signed in ink** by the applicant(s) or by the authorized agent with title or authority if an organization or corporation?
- ☑ **Watermaster Report** — Is the local Watermaster's report on water availability included?
- ☐ **N/A, form is not required if water is to be diverted, conveyed, and/or used only on federal lands. The application identifies the project area as on federal lands administered by the BLM, Vale Office**
  Land Use Form — Is a Land Use Form included, and completed by local planning officials? *Signature must be within the last 12 months.*
- ☑ Does the **map meet requirements** of OAR 690-340-0030? If map is larger than 11 x 17, four copies must be submitted.
  - ☑ Township, Range, Section
  - ☑ Location of each diversion point, well or dam
  - ☑ Reference corner on map **LAT & LONG Provided**
  - ☑ Each POD coordinate by reference to a recognized public land survey corner **LAT & LONG Provided**
  - ☑ The place of use

- ☑ Even scale of not less than 2" = 1 mile
- ☑ Other topographical features such as roads, streams, railroads, etc., which may be helpful in locating the diversion points in the field.

☑ **Fees** enclosed?

$280.00 including the first point of diversion:	**$280.00**
$30.00 for each additional point of diversion:	**0**
Total fee:	**$280.00**
Fee Paid:	**$280.00**
Still Owed:	**0**
Receipt Number:	**139140**

Completeness Check by: **Mary Bjork** Date: **9-19-2022**

Limited License Notes

Public Notice September 20, 2022
Use/Quantity ROAD CONSTRUCTION

Re-noticed
Public Notice June 27, 2023
Uses/Quantity ROAD CONSTRUCTION
MINERAL EXPLORATION DRILLING WATER SUPPLY

Comments received from:

1. Marisa Meyer, U.S. Fish and Wildlife Service -marisa_meyer@fws.gov
2. Katie Fite, Wildlands Defense - katie@wildlandsdefense.org
3. Jaimi Wilkinson, GJ Livestock LLC - gjbeef@outlook.com
4. Randall Sinnott - Randall.sinnott@gmail.com
5. Carolyn Hintz - sackettandjetta@hotmail.com
6. Cale Christi - cale.austin@gmail.com
7. Will C. Crawford - willnpatty@comcast.net
8. Anne White, Oregon Natural Desert Association - anne@onda.org
9. Lisa Brown, WaterWatch of Oregon - lisa@waterwatch.org
10. Siskiyou Rising Tide - sorisingtide@gmail.com
11. CJ Callao, People of Red Mountain - cjcallao@hotmail.com
12. Ka'ila Farrell-Smith - kaila@kailafarrellsmith.com
13. Max Wilbert - max@maxwilbert.org

WMA – in-line TFM

OWRD Technical Reviews Completed 12/1/2022

WCC – OK (proposed wells) Consider adding Construction language.

GW Review – PSI Not Found
Is not over appropriated
Will if properly conditioned:

- Med water-use reporting √
- Allow groundwater production only from the Volcanic Rock groundwater reservoir between approximately 400 feet and 600 feet below land surface.

Special Conditions:

1) For each year under license, the water level within the POA well shall be measured and reported to the Department as Water Level Below Land Surface before use of the well commences for that year.
2) During construction of the POA well, cuttings shall be collected at 10-foot intervals and at changes in lithology, to be submitted to the Department whenever possible.

DEQ - Cole Hendrickson submitted recommendations 9/1/2022

Assuming no PSI is found, the use is allowable. The proposed well will be located approximately 0.3 miles away from Cherokee Creek. Temperature impacts are of concern on Cherokee Creek.

Ensure that the installation of an in-line totalizing flow meter is included in the construction of the well or at the POD, as indicated by the Water Master.

ODFW – Jordan Smith submitted recommendations 3/31/2023

(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.)

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:

The applicant shall minimize potential impacts to the water table resulting from this use.

The applicant shall provide a written plan to reduce potential runoff that addresses working near surface water sources and preparing for severe weather events.

The applicant shall comply with state and federal water quality laws. The applicant shall not violate any state water quality standards as defined by OAR 340-041 or any 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.

The applicant shall provide all data related to the use at the request of any state agency.

☒ Comments: A preliminary assessment utilizing the presumptive standard approach determined that the proposed use would have very little impact on the surface water availability in Cherokee Creek, Mine Creek, Payne Creek and McDermitt Creek. This review will have no bearing on any future applications as ODFW reserves the right to utilize new information as it becomes available. ODFW retains the prerogative to pursue future instream water rights for the lower reaches of McDermitt Creek and its tributaries, and the license shall be subordinate to any such right.

McDermitt Creek and its tributaries are the only place Lahontan cutthroat trout, Lahontan redside shiner and the Tahoe sucker can be found in Oregon. Changing habitat conditions and species needs may warrant additional conditions and/or mitigation for future water right applications in this area to protect natural ecological communities and maintain naturally produced native fish species per the Native Fish Conservation Policy goals defined by OAR 635-007-0503.

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.

The Department conducts a review of an application for a limited license to assess the proposed use, diversion, and location it looks for water availability and public interest concerns such as threatened and endangered fish, water quality limited streams, or scenic waterways. An application for a limited license is subject to a public comment period. If the Department finds that water is available and the proposed use will not impair the public interest, it will be issued with terms and conditions similar to those of a water use permit.

GW found proposed well location to be hydraulically connected, but no psi, therefore DIV 33 comments don't apply.

Comments call out the following:
Lahontan cutthroat trout are a threatened species under the Federal Endangered Species Act.
Drought conditions in area.
Lack of data.
Impacts to streamflow, environment, wildlife.
Water quality & water availability.
Cultural interests & spiritual uses.

Approved:

MEMO

To: Kristopher Byrd, Well Construction Section Manager

From: Tommy Laird, Well Construction Program Coordinator

Subject: Review of Water Right Application LL-1941

Date: December 1, 2022

The attached application was forwarded to the Well Construction Section by the Groundwater Section. Phil Marcy reviewed the application. Please see Phil's Groundwater Review.

Applicant's Well #1 (Proposed Well): Applicant's Well #1 is a proposed well, therefore it cannot be reviewed for construction. Construction of the proposed well shall be completed in a manner that protects ground water resources as required under Oregon Administrative Rules 690-200 through 690-240. During construction of this well, specific attention should be paid to ensure sealing requirements are met and that the well does not commingle aquifers.

The construction of applicant's proposed Well #1 may not satisfy hydraulic connection issues.

Groundwater Application Review Summary Form

Application # LL- 1941

GW Reviewer Phillip I. Marcy Date Review Completed: 10/14/2022

Summary of GW Availability and Injury Review:

☐ Groundwater for the proposed use is either over appropriated, will not likely be available in the amounts requested without injury to prior water rights, OR will not likely be available within the capacity of the groundwater resource per Section B of the attached review form.

Summary of Potential for Substantial Interference Review:

☐ There is the potential for substantial interference per Section C of the attached review form.

Summary of Well Construction Assessment:

☐ The well does not appear to meet current well construction standards per Section D of the attached review form. Route through Well Construction and Compliance Section.

This is only a summary. Documentation is attached and should be read thoroughly to understand the basis for determinations and for conditions that may be necessary for a permit (if one is issued).

WATER RESOURCES DEPARTMENT

MEMO 10/14/2022

TO: **Application** LL- 1941

FROM: **GW:** Phillip I. Marcy
(Reviewer's Name)

SUBJECT: Scenic Waterway Interference Evaluation

☐ **YES**
☒ **NO** The source of appropriation is hydraulically connected to a State Scenic Waterway or its tributaries

☐ **YES**
☒ **NO** Use the Scenic Waterway Condition (Condition 7J)

☐ Per ORS 390.835, the Groundwater Section is **able** to calculate ground water interference with surface water that contributes to a Scenic Waterway. The calculated interference is distributed below

☐ Per ORS 390.835, the Groundwater Section is **unable** to calculate ground water interference with surface water that contributes to a scenic waterway; **therefore, the Department is unable to find that there is a preponderance of evidence that the proposed use will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway**

DISTRIBUTION OF INTERFERENCE

Calculate the percentage of consumptive use by month and fill in the table below. If interference cannot be calculated, per criteria in 390.835, do not fill in the table but check the "unable" option above, thus informing Water Rights that the Department is unable to make a Preponderance of Evidence finding.

Exercise of this permit is calculated to reduce monthly flows in [Enter] Scenic Waterway by the following amounts expressed as a proportion of the consumptive use by which surface water flow is reduced.

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec

PUBLIC INTEREST REVIEW FOR GROUNDWATER APPLICATIONS

TO: Water Rights Section Date 10/14/2022

FROM: Groundwater Section Phillip I. Marcy
Reviewer's Name

SUBJECT: Application LL- 1941 Supersedes review of _____
Date of Review(s)

PUBLIC INTEREST PRESUMPTION; GROUNDWATER

OAR 690-310-130 (1) *The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525.* Department staff review groundwater applications under OAR 690-310-140 to determine whether the presumption is established. OAR 690-310-140 allows the proposed use be modified or conditioned to meet the presumption criteria. **This review is based upon available information and agency policies in place at the time of evaluation.**

A. GENERAL INFORMATION: Applicant's Name: **Hitech Minerals, Inc.** County: **Malheur**

A1. Applicant(s) seek(s) 0.167 cfs from 1 well(s) in the Owyhee/Quinn River Basin, McDermitt Creek subbasin

A2. Proposed use Drilling water/Road Construction Seasonality: March 1st – November 30th (275 days)

A3. Well and aquifer data **(attach and number logs for existing wells; mark proposed wells as such under logid)**:

Well	Logid	Applicant's Well #	Proposed Aquifer*	Proposed Rate(cfs)	Location (T/R-S QQ-Q)	Location, metes and bounds, e.g. 2250' N, 1200' E fr NW cor S 36
1	Proposed	1	Bedrock	0.167	41S/40E-9 SE-SW	42.020578N, 118.035543W
2						
3						
4						

* Alluvium, CRB, Bedrock

Well	Well Elev ft msl	First Water ft bls	SWL ft bls	SWL Date	Well Depth (ft)	Seal Interval (ft)	Casing Intervals (ft)	Liner Intervals (ft)	Perforations Or Screens (ft)	Well Yield (gpm)	Draw Down (ft)	Test Type
1	5113	NA	NA	NA	535	0-415	0-420	Unknown	420-520	NA	NA	NA

Use data from application for proposed wells.

A4. **Comments:** The proposed POA well is designed to target volcanic rock for production of groundwater with a continuous casing and continuous seal to a depth of 420' Below Land Surface. The proposed POA lies within the Owyhee administrative basin, but within the physical Quinn River Basin where surface water (and presumably groundwater) migrates southward into Nevada. POA location given in decimal degrees, which for limited licenses is acceptable, per Water Rights Division.

A5. ☒ **Provisions of the** Owyhee Basin rules relative to the development, classification and/or management of groundwater hydraulically connected to surface water ☐ **are**, *or* ☒ **are not**, activated by this application. (Not all basin rules contain such provisions.)
Comments: _____

A6. ☐ **Well(s) #** _____, _____, _____, _____, _____, tap(s) an aquifer limited by an administrative restriction.
Name of administrative area: _____
Comments: _____

B. GROUNDWATER AVAILABILITY CONSIDERATIONS, OAR 690-310-130, 400-010, 410-0070

B1. **Based upon available data**, I have determined that groundwater* for the proposed use:

a. ☐ **is** over appropriated, ☒ **is not** over appropriated, *or* ☐ **cannot be determined to be** over appropriated during any period of the proposed use. * This finding is limited to the groundwater portion of the over-appropriation determination as prescribed in OAR 690-310-130;

b. ☐ **will not** *or* ☐ **will** likely be available in the amounts requested without injury to prior water rights. * This finding is limited to the groundwater portion of the injury determination as prescribed in OAR 690-310-130;

c. ☐ **will not** *or* ☐ **will** likely to be available within the capacity of the groundwater resource; or

d. ☒ **will, if properly conditioned**, avoid injury to existing groundwater rights or to the groundwater resource:

i. ☒ The permit should contain condition #(s) **Medium Water Use Reporting**;

ii. ☒ The permit should be conditioned as indicated in item 2 below.

iii. ☒ The permit should contain special condition(s) as indicated in item 3 below;

B2. a. ☐ **Condition** to allow groundwater production from no deeper than _____ ft. below land surface;

b. ☐ **Condition** to allow groundwater production from no shallower than _____ ft. below land surface;

c. ☒ **Condition** to allow groundwater production only from the **Volcanic Rock** groundwater reservoir between approximately **400** ft. and **600** ft. below land surface;

d. ☐ **Well reconstruction** is necessary to accomplish one or more of the above conditions. The problems that are likely to occur with this use and without reconstructing are cited below. Without reconstruction, I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Groundwater Section.

Describe injury –as related to water availability– that is likely to occur without well reconstruction (interference w/ senior water rights, not within the capacity of the resource, etc): _____

B3. **Groundwater availability remarks:** Little groundwater information is available for the target aquifer in the area near the proposed development. Nearby well MALH 2490 is constructed to similar depth as the proposed POA well but lacks a record of water level data. Wells with extended records in the Quinn River Basin do not suggest excessive declines and there is little documented groundwater use in this region.

Special Conditions:

1) For each year under license, the water level within the POA well shall be measured and reported to the Department as Water Level Below Land Surface before use of the well commences for that year.

2) During construction of the POA well, cuttings shall be collected at 10-foot intervals and at changes in lithology, to be submitted to the Department whenever possible.

C. GROUNDWATER/SURFACE WATER CONSIDERATIONS, OAR 690-09-040

C1. **690-09-040 (1):** Evaluation of aquifer confinement:

Well	Aquifer or Proposed Aquifer	Confined	Unconfined
1	**Volcanic Rock**	☒	☐
		☐	☐
		☐	☐
		☐	☐

Basis for aquifer confinement evaluation: Nearby wells MALH 2490 and MALH 54330 report static groundwater elevations well below land surface, and in the case of MALH 2490, identical to the elevation at which it was first encountered. The proposed POA is planning to produce from zones at depth that are not incised by local drainages. Therefore some degree of confinement is anticipated, but it is unknown to what extent the groundwater will rise above the water bearing zone.

C2. **690-09-040 (2) (3):** Evaluation of distance to, and hydraulic connection with, surface water sources. All wells located a horizontal distance less than ¼ mile from a surface water source that produce water from an unconfined aquifer shall be assumed to be hydraulically connected to the surface water source. Include in this table any streams located beyond one mile that are evaluated for PSI.

Well	SW #	Surface Water Name	GW Elev ft msl	SW Elev ft msl	Distance (ft)	Hydraulically Connected? YES	NO	ASSUMED	Potential for Subst. Interfer. Assumed? YES	NO
1	1	**McDermitt Creek**	**Unk.**	**4960-4980**	**5010**	☒	☐	☐	☐	☒
1	2	**Hot Creek**	**Unk.**	**4960-5000**	**1500**	☒	☐	☐	☐	☒
1	3	**Payne Creek**	**Unk.**	**4960-5080**	**1975**	☒	☐	☐	☐	☒
						☐	☐	☐	☐	☐

Basis for aquifer hydraulic connection evaluation: There is no evidence for any significant barrier to groundwater migration between the production zone within the well and nearby surface water sources, though conductivity of these materials is likely to be quite low. At this point, groundwater elevation cannot be confirmed at the POA location as the well has not been constructed yet.

Water Availability Basin the well(s) are located within: No WAB exists for this location.

C3a. **690-09-040 (4):** Evaluation of stream impacts for each well that has been determined or assumed to be **hydraulically connected and less than 1 mile** from a surface water (SW) source. Limit evaluation to instream rights and minimum stream flows that are pertinent to that SW source, not lower SW sources to which the stream under evaluation is tributary. Compare the requested rate against the 1% of 80% *natural* flow for the pertinent Water Availability Basin (WAB). If Q is not distributed by well, use full rate for each well. Any checked ☒ box indicates the well is assumed to have the potential to cause PSI.

Well	SW #	Well < ¼ mile?	Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
1	1	☐	☐	NA	NA	☐	NA	☐	<<25%	☐
1	2	☐	☐	NA	NA	☐	NA	☐	<<25%	☐
1	3	☐	☐	NA	NA	☐	NA	☐	<<25%	☐
		☐	☐			☐		☐		☐

C3b. **690-09-040 (4):** Evaluation of stream impacts by total appropriation for all wells determined or assumed to be **hydraulically connected and less than 1 mile** from a surface water source. **Complete only if Q is distributed among wells.** Otherwise same evaluation and limitations apply as in C3a above.

	SW #		Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
			☐			☐		☐		☐
			☐			☐		☐		☐

Comments: No WAB is in place for the area in which the proposed well is to be constructed. Interference with nearby surface water is not anticipated to be greater than 25% of the pumping rate at 30 days, due to the low bulk transmissivity expected between the production zone and the surface. At this point, the Department has little data on expected borehole lithology due to no comparable wells (see cross-section below) but it is anticipated that much of the upper portion of the borehole will intercept fine-grained lakebed deposits and lava flows as in wells to the east.

C4a. **690-09-040 (5):** Estimated impacts on **hydraulically connected surface water sources greater than one mile** as a percentage of the proposed pumping rate. Limit evaluation to the effects that will occur up to one year after pumping begins. This table encompasses the considerations required by 09-040 (5)(a), (b), (c) and (d), which are not included on this form. Use additional sheets if calculated flows from more than one WAB are required.

Non-Distributed Wells Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													

Distributed Wells Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
(A) = Total Interf.													
(B) = 80 % Nat. Q													
(C) = 1 % Nat. Q													
(D) = (A) > (C)		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
(E) = (A / B) x 100		%	%	%	%	%	%	%	%	%	%	%	%

(A) = total interference as CFS; (B) = WAB calculated natural flow at 80% exceed. as CFS; (C) = 1% of calculated natural flow at 80% exceed. as CFS; (D) = highlight the checkmark for each month where (A) is greater than (C); (E) = total interference divided by 80% flow as percentage.

Basis for impact evaluation:

C4b. **690-09-040 (5) (b) The potential to impair or detrimentally affect the public interest is to be determined by the Water Rights Section.**

C5. ☐ **If properly conditioned**, the surface water source(s) can be adequately protected from interference, and/or groundwater use under this permit can be regulated if it is found to substantially interfere with surface water:

i. ☐ The permit should contain condition #(s)_____;

ii. ☐ The permit should contain special condition(s) as indicated in "Remarks" below;

C6. **SW / GW Remarks and Conditions:** What little groundwater data exist in the area indicate there is little or no decline in groundwater elevation or stream discharge in the vicinity of the proposed development. Lack of development of water resources in the region is a contributing factor to the ongoing stability of the system as it stands today. Increasing development interest due to the presence of lithium resources in the area has the potential to impair the limited groundwater resource if not approached with caution. If a limited license is issued, it is important that the Department evaluate the effects of increased groundwater pumping after the five-year term of this license expires or any new applications are submitted.

References Used: GWIS water level database, local well logs

USGS National Water Information System, Gage site 10352500, accessed 10/14/2022.

D. WELL CONSTRUCTION, OAR 690-200

D1. **Well #:** _____ **Logid:** _____

D2. **THE WELL does not appear to meet current well construction standards based upon:**

a. ☐ review of the well log;

b. ☐ field inspection by _____;

c. ☐ report of CWRE _____;

d. ☐ other: (specify) _____

_____

D3. **THE WELL construction deficiency or other comment is described as follows:** _____

_____

_____

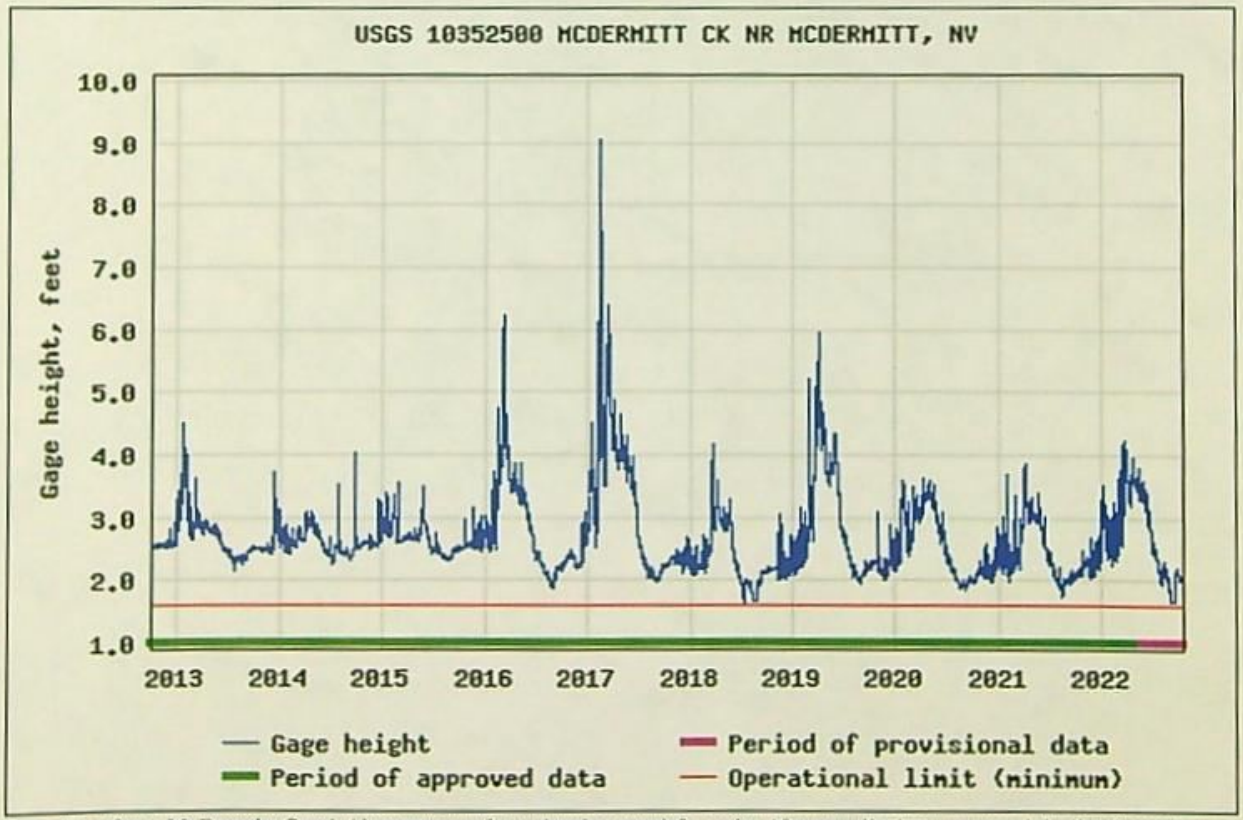
_____

_____

D4. ☐ **Route to the Well Construction and Compliance Section for a review of existing well construction.**

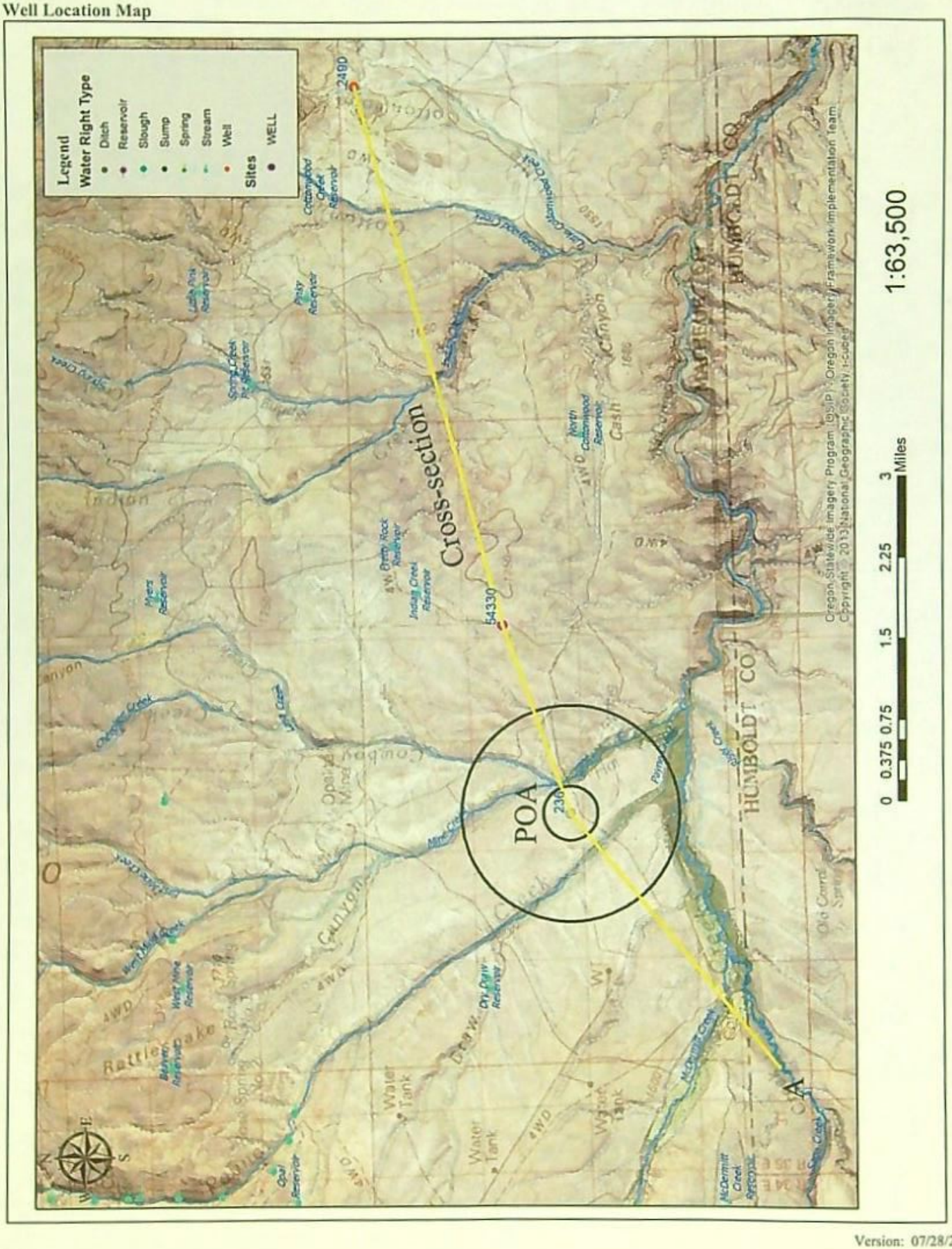
Water Availability Tables

No WAB exists for this area.

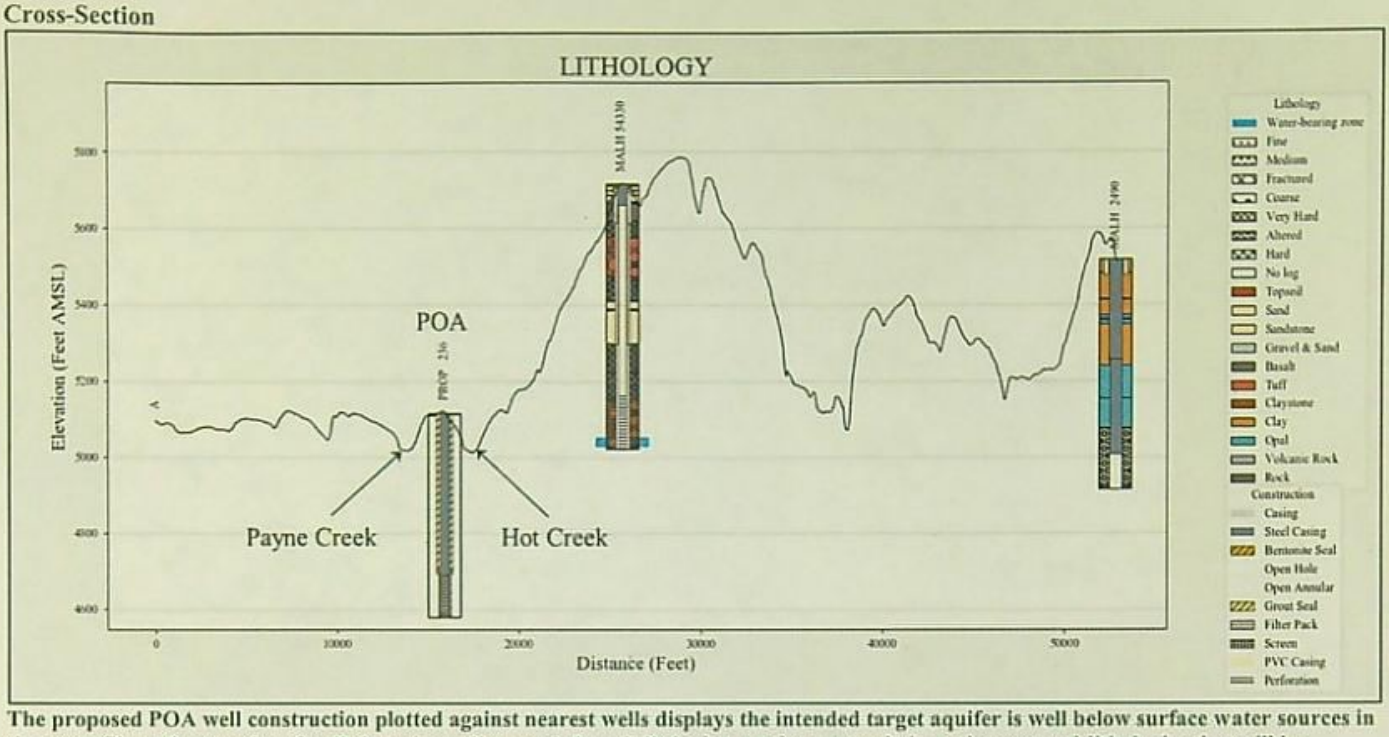


Gage data from McDermitt Creek (downstream from development) for prior 10 years displays a general decline in surface water discharge possibly due to decreased influence of baseflow from groundwater discharge. No evidence of groundwater declines has been observed within wells tracked by the Department, however.

Well Location Map

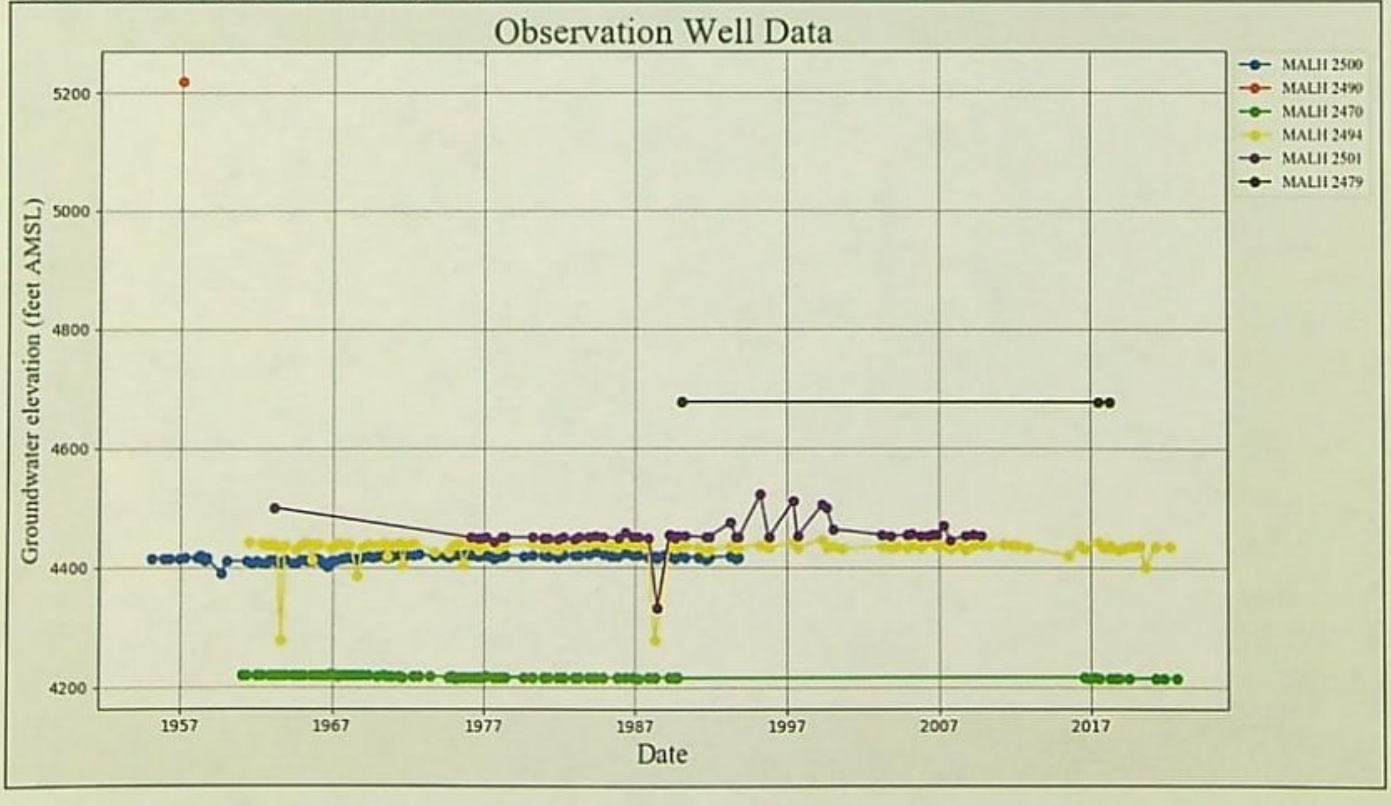


Cross-Section



The proposed POA well construction plotted against nearest wells displays the intended target aquifer is well below surface water sources in the area. Given the sparsity of wells here (note distances) there is little that can be assumed about the expected lithologies that will be encountered. The applicant may have more complete information on which to base proposed construction.

Water-Level Measurements in Nearby Wells



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.

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:

The applicant shall minimize potential impacts to the water table resulting from this use.

The applicant shall provide a written plan to reduce potential runoff that addresses working near surface water sources and preparing for severe weather events.

The applicant shall comply with state and federal water quality laws. The applicant shall not violate any state water quality standards as defined by OAR 340-041 or any 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.

The applicant shall provide all data related to the use at the request of any state agency.

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

☒ Comments:

A preliminary assessment utilizing the presumptive standard approach determined that the proposed use would have very little impact on the surface water availability in Cherokee Creek, Mine Creek, Payne Creek and McDermitt Creek. This review will have no bearing on any future applications as ODFW reserves the right to utilize new information as it becomes available. ODFW retains the prerogative to pursue future instream water rights for the lower reaches of McDermitt Creek and its tributaries, and the license shall be subordinate to any such right.

McDermitt Creek and its tributaries are the only place Lahontan cutthroat trout, Lahontan redside shiner and the Tahoe sucker can be found in Oregon. Changing habitat conditions and species needs may warrant additional conditions and/or mitigation for future water right applications in this area to protect natural ecological communities and maintain naturally produced native fish species per the Native Fish Conservation Policy goals defined by OAR 635-007-0503.

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: Malheur
Stream: Cherokee Creek/Mine Creek/Payne Creek Tributary to: McDermitt Creek
TRSQQ: 41.00S-40.00E-9-SE SW (optional)
Proposed period of use (from application, if available): March through November
Requested amount (cfs or AF): 0.167 cfs

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
Lahontan cutthroat trout	☐	☒	☐	☐	☐	☐	☒
Lahontan redside	☐	☐	☐	☒	☒	☒	☒
Tahoe sucker	☐	☐	☐	☒	☒	☒	☒
Speckled Dace	☐	☐	☐	☒	☒	☒	☒
type here	☐	☐	☐	☐	☐	☐	☐
type here	☐	☐	☐	☐	☐	☐	☐
type here	☐	☐	☐	☐	☐	☐	☐
type here	☐	☐	☐	☐	☐	☐	☐
type here	☐	☐	☐	☐	☐	☐	☐

*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

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"**

Due to the lack of information regarding water availability, ODFW assumes 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

☐ 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: A preliminary assessment utilizing the presumptive standard

approach determined that the proposed use would have very little impact on the surface water availability in Cherokee Creek, Mine Creek, Payne Creek and McDermitt Creek. This review will have no bearing on any future applications as ODFW reserves the right to utilize new information as it becomes available. ODFW retains the prerogative to pursue future instream water rights for the lower reaches of McDermitt Creek and its tributaries, and the license shall be subordinate to any such right.

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.

B) Comments concerning availability of biologically necessary flows:

3.3 Fish Passage and Screening

A) Would the proposed use potentially create or maintain an artificial obstruction[1] 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"**

[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.

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 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

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

☒ 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.

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):
McDermitt Creek and its tributaries are the only place Lahontan cutthroat trout, Lahontan redside shiner and the Tahoe sucker can be found in Oregon. Changing habitat conditions and species needs may warrant additional conditions and/or mitigation for future water right applications in this area to protect natural ecological communities and maintain naturally produced native fish species per the Native Fish Conservation Policy goals defined by OAR 635-007-0503.

☐ 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):

The applicant shall minimize potential impacts to the water table resulting from this use.

The applicant shall provide a written plan to reduce potential runoff that addresses working near surface water sources and preparing for severe weather events.

The applicant shall comply with state and federal water quality laws. The applicant shall not violate any state water quality standards as defined by OAR 340-041 or any 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.

The applicant shall provide all data related to the use at the request of any state agency.

☐ 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: Jorden D Smith Digitally signed by Jorden D Smith Date: 2023.03.31 08:28:22 -07'00' **Date:** 03/31/2023

Name: Jorden Smith **Phone:** (541)805-1990 **Email:** Jorden.D.Smith@odfw.oregon.gov

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 Program[2], 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. 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).

7.1 Identification of Habitat Category

Habitat Category[3] 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

[2] Water Resources Department's document number 94-2
[3] *see* ODFW Habitat Mitigation Policy, OAR 635-415-0025

☐ 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 reach[4] within the watershed/home range of the impacted species or population
  ☐ 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

[4] *see* ODFW's Aquatic Habitat Priority maps

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 reach[5] 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:**
Name: **Phone:** **Email:**

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}

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:

☐ 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 Program[5], 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

BJORK Mary F * WRD

From: SMITH Jorden D * ODFW
Sent: Friday, March 31, 2023 8:32 AM
To: BJORK Mary F * WRD
Subject: RE: LL-1941, HiTech Minerals
Attachments: Malheur_McDermitt Creek_LL-1941_HiTech_ODFW Review.pdf

Hi Mary,

Attached is ODFW's review of LL-1941.

Thank you,
Jorden Smith
Hydro & Water Rights Coordinator
East Region
Cell: (541)805-1990
Fax: (541)963-6670

From: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Sent: Monday, March 27, 2023 1:56 PM
To: SMITH Jorden D * ODFW <Jorden.D.SMITH@odfw.oregon.gov>
Cc: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Subject: RE: LL-1941, HiTech Minerals

Hi Jorden,

The applicant is requesting an update on my review, do you have any updates to share on ODFW's review for LL-1941, HiTech Minerals?

Thanks for letting me know,

Mary

Mary F. Bjork
Water Rights Program Analyst
725 Summer St NE, Suite A, Salem OR 97301 | Phone 503-979-9895

OREGON WATER RESOURCES DEPARTMENT

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From: SMITH Jorden D * ODFW <Jorden.D.SMITH@odfw.oregon.gov>
Sent: Thursday, January 26, 2023 8:30 AM
To: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Subject: RE: LL-1941, HiTech Minerals

Good morning,

Sorry for the delayed response. We are still coordinating on this one.

Thank you for your patience and checking in!

Jorden Smith
Hydro & Water Rights Coordinator
East Region
Cell: (541)805-1990
Fax: (541)963-6670

From: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Sent: Friday, January 20, 2023 8:45 AM
To: SMITH Jorden D * ODFW <Jorden.D.SMITH@odfw.oregon.gov>
Cc: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Subject: FW: LL-1941, HiTech Minerals
Importance: High

Hi Jorden,

Do you have any updates to share on ODFW's review for LL-1941, HiTech Minerals?

Thanks so much for letting me know.

Mary

Mary F. Bjork
Water Rights Program Analyst
Oregon Water Resources Department
725 Summer St NE, Suite A, Salem OR 97301 | Cell 503-979-9895

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From: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Sent: Thursday, December 08, 2022 2:29 PM
To: SMITH Jorden D * ODFW <Jorden.D.SMITH@odfw.oregon.gov>
Cc: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Subject: RE: LL-1941, HiTech Minerals

Hi Jorden,

LL-1941 is on my list for review as the public comment period has past and the Groundwater Review is complete. I've imported it to the online data along with DEQ's review. They are available under the Scanned Documents heading. U.S. Fish & Wildlife also submitted review through the electronic public comment portal. You'll see it if you click on the Electronic Public Comments link, also under the Scanned Documents heading.

I have several reviews to complete before LL-1941 and will be on holiday the week of 12/19. So, with current workload and schedule, I don't anticipate to starting my review until the end of the month at the earliest. That said, since you have contacted me that you are still in the process of review, I will wait for your review and contact you as needed.

Hope this helps,

Mary F. Bjork
Water Rights Program Analyst
Oregon Water Resources Department
725 Summer St NE, Suite A, Salem OR 97301 | Cell 503-979-9895

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From: SMITH Jorden D * ODFW <Jorden.D.SMITH@odfw.oregon.gov>
Sent: Wednesday, December 07, 2022 1:19 PM
To: BJORK Mary F * WRD <Mary.F.BJORK@water.oregon.gov>
Subject: LL-1941, HiTech Minerals

Hi Mary,

We are currently in the process of reviewing LL-1941 for HiTech Minerals and still have a few things to lock down.

We were just wondering where WRD is at in the process so that we can plan our effort accordingly.

Thanks,

Jorden Smith
Hydro & Water Rights Coordinator
East Region
Cell: (541)805-1990
Fax: (541)963-6670

Oregon DEQ Division 33 Review
Summary Sheet

Application Information

Applicant Name:	Hitech Minerals, INC.	**Application Number:**	LL-1941
Basin & Sub-basin:	Owyhee	**Requested Water Amount:**	0.167 CFS
Nearest Surface Water:	Cherokee Creek	**Nearest Receiving Waterbody:**	Cherokee Creek
Proposed Use:	Mineral Exploration, Road Construction	**Requested Period of Use:**	March through November for Five Years

Division 33 Geographic Area

☐ Lower Columbia ☐ Upper Columbia ☒ Statewide	
Upper and Lower Columbia Basins only: Based upon the review completed below, does the proposed use comply with existing state and federal water quality standards or may conditions be applied to bring the use into compliance?	☐ No ☐ Yes ☐ Insufficient data
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.)	☒ No ☐ Yes ☐ Insufficient data

Recommended Pre-Proposed Final Order Actions

1. **Construction Activities:** 1200-C NPDES Stormwater Construction permit 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.
Mitigation Obligation ☒ **No** ☐ **Yes**
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 permitted 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 **[month-month]** 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.

Recommended Permit Conditions

1. **Water Quality:** All water use under this permit shall comply with state and federal water quality laws. The permittee 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. Permittee is responsible for obtaining any necessary state and federal permits.
2.
3.

Seasonal Limitations

Reason for limitation	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
TMDL: Critical period	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
WAB: 20% flow threshold exceeded	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
Other:	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

Additional Reviewer comments ☐ No ☒ Yes	
[Use this space to describe any of the following: reasoning to substantiate permit 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.] Assuming no PSI is found, the use is allowable. The proposed well will be located approximately 0.3 miles away from Cherokee Creek. Temperature impacts are of concern on Cherokee Creek. Ensure that the installation of an in-line totalizing flow meter is included in the construction of the well or at the POD, as indicated by the Water Master.	
Interagency consultation: [Describe any substantial interagency consultation. Who was contacted and what was discussed?]	
DEQ review prepared by: Cole Hendrickson	**Date complete:** 9/21/2022

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 permit issuance, the applicant must provide suitable flow mitigation. You may skip to question 7.

3. **Water Quality Limited**
   Is this source **Water Quality Limited** or a tributary to a water quality limited water body? Note: limit 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
Cherokee Creek	Headwaters WA Unit to confluence with McDermitt Creek	Temperature	Category 5	Fish and Aquatic Life
McDermitt Creek	Cherokee Creek to Nevada	Temperature	Category 5	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

Cherokee Creek does not meet Oregon's stream temperature standards. Oregon's stream temperature standards are based on the life cycle needs of salmonids and other resident fish and aquatic life. Water temperatures are influenced by solar radiation, stream shade, ambient air temperatures, channel morphology, groundwater inflows, and stream velocity, volume, and flow. Surface water temperatures may also be warmed by anthropogenic activities such as discharging heated water, changing stream width or depth, reducing stream shading, and water withdrawals. Stream temperatures that exceed the standards can disrupt the life cycle of a sensitive, threatened, or endangered fish species and may even cause death. In waterbodies where temperatures exceed standards, additional summertime water withdrawals will reduce the stream's heat capacity and cause greater fluctuation in daytime and nighttime stream temperatures. This will result in the diminution of 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 permit 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.]

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 permit conditions.]

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

Water Availability and Cumulative Impacts Summary Table
Percent of natural flow = (consumptive use/natural stream flow)*100. See Appendix for additional instructions.

No WAB Available

Watershed ID	Exceedance Level	Month	Natural Stream Flow	Consumptive Use	Expected Stream Flow	Reserved Stream Flows	Instream Requirement	Net Water Available	Percent of Flow

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 permit condition(s)?
☐ No ☒ Yes

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

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 permit conditions, then select all appropriate conditions from the standardized menu of conditions.

Recommended conditions: [List conditions]

Construction Activities

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 permitted 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 permit, the permittee 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 permittee 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 permittee shall maintain the riparian area for the life of the permit and subsequent certificate per the approved Riparian Mitigation Plan. The permittee 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 permit requires a 50-foot setback, which is cited from the National General Construction Permit 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 permit 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, permittee may be required to obtain additional permits 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 permittee is responsible for ensuring that herbicide application laws are met, and that they obtain from DEQ any necessary pesticide application permits, including the 2300-A Pesticide General Permit or the 2000-J NPDES General Permit. 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 permit shall comply with state and federal water quality laws. The permittee 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. Permittee is responsible for obtaining any necessary state and federal permits.

Agricultural Water Quality Management Area Rules: The permittee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The permittee 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 permittee shall install a flow control valve on the diversion system to limit use to the permitted 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 permittee shall not divert water under this water use permit 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 permittee 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 permittee shall design and operate the water storage facility such that all waters within and below the reservoir meet water quality criteria. The permittee 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 permittee 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, permittee shall pass all live flow downstream at a rate equal to inflow, using methods that protect instream water quality.

Lining: The permittee 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 permittee shall

* 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 permit conditions that can prevent the "loss" or "net loss" of essential habitat of ST&E fish species. When permit conditions cannot be identified that meet this standard, then the DEQ recommends denial of the permit. 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:

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

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.

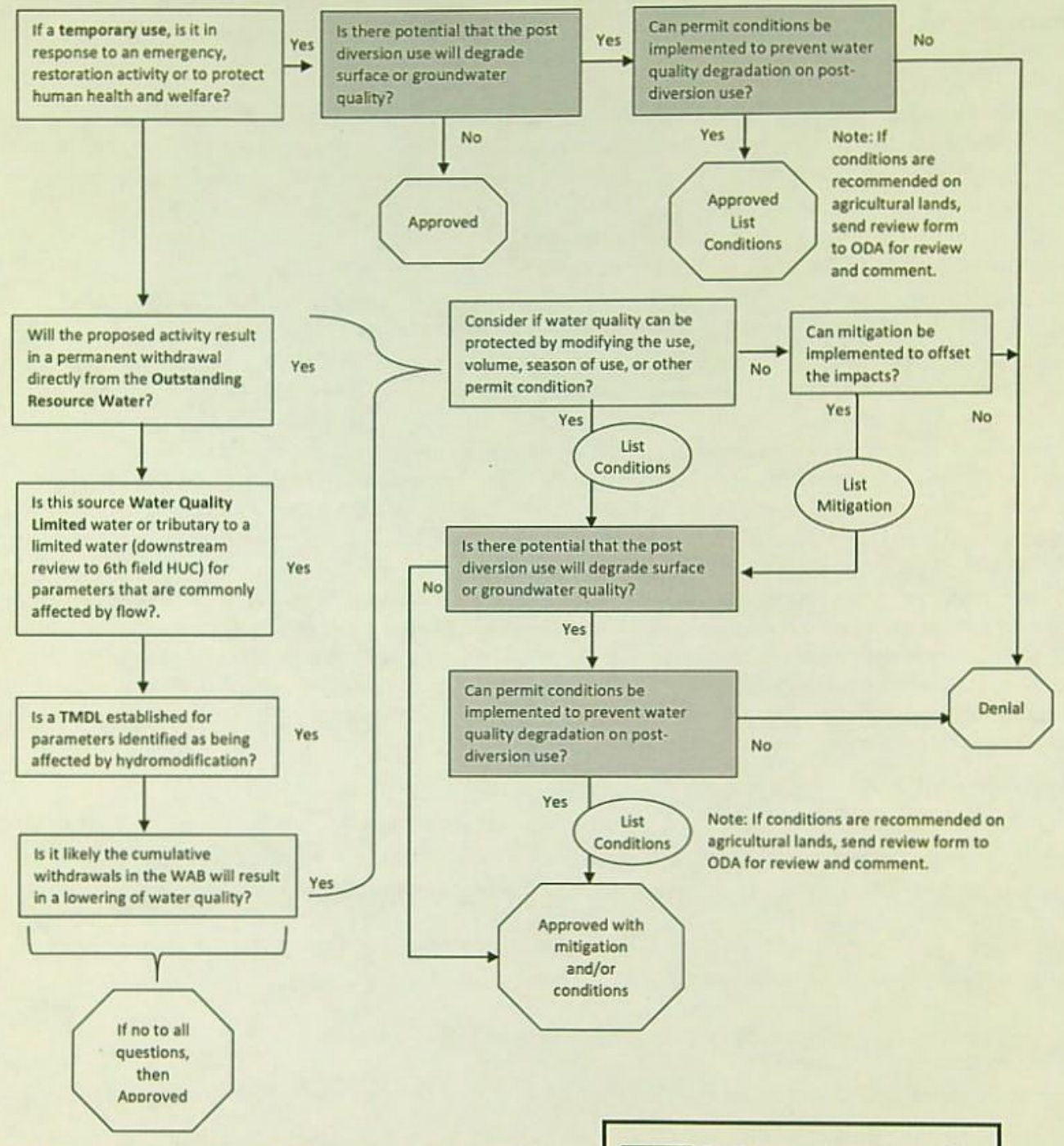
Example:

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).

From: HENDRICKSON Cole * DEQ
To: BJORK Mary F * WRD
Subject: LL-1941 Comment
Date: Wednesday, September 21, 2022 2:18:30 PM
Attachments: LL-1941_Hitech_Owyhee_9.21.22.CH.docx

Good Afternoon Mary,

Please see the attached comments for Hitech Minerals, INC. in the Owyhee/McDermitt Creek Basin.

Thank you,

Cole Hendrickson
he/him/his
Integrated Water Resources Specialist
Department of Environmental Quality
Eastern Region (Bend Office)
Cole.Hendrickson@DEQ.Oregon.Gov
Cell: 458-256-9155

New Working Schedule: M-Th 7:00-5:30

Received From	Email Address	* Lahontan Cutthroat Trout	Drought	Lack of Data	Impacts on Stremflow	Impacts on Environment	Impacts on Wildlife	Water Quality	Water Availiability	Cultural Interests & Spiritual Uses
Marisa Meyer - U.S. Fish and Wildlife Service	marisa_meyer@fws.gov	√	√	√	√			√	√	
Katie Fite - Wildlands Defense	katie@wildlandsdefense.org	√	√	√	√	√	√	√	√	√
Jaimi Wilkinson - GJ Livestock LLC	gjbeef@outlook.com	√								
Randall Sinnott	Randall.sinnott@gmail.com	√	√		√	√	√			√
Carolyn Hintz	sackettandjetta@hotmail.com		√		√	√	√		√	
Cale Christi	cale.austin@gmail.com	√	√							
Will C. Crawford	willnpatty@comcast.net		√			√	√		√	
Anne White - Oregon Natural Desert Association	anne@onda.org	√		√	√	√		√	√	
Lisa Brown - WaterWatch of Oregon	lisa@waterwatch.org	√		√	√	√		√	√	
Siskiyou Rising Tide	sorisingtide@gmail.com	√	√	√	√	√	√	√	√	√
CJ Callao - People of Red Mountain	cjcallao@hotmail.com			√				√	√	
Ka'ila Farrell-Smith	kaila@kailafarrellsmith.com	√	√	√	√	√	√	√	√	√
Max Wilbert	max@maxwilbert.org	√					√			√

* Lahontan cutthroat trout are a threatened species under the Federal Endangered Species Act.

Comments received on Limited License Application LL-1941

Comments received from:

1.	Marisa Meyer	U.S. Fish and Wildlife Service	marisa_meyer@fws.gov
2.	katie fite	wildlands defense	katie@wildlandsdefense.org
3.	Jaimi Wilkinson	GJ Livestock LLC	gjbeef@outlook.com
4.	Randall Sinnott		Randall.sinnott@gmail.com
5.	Carolyn Hintz		sackettandjetta@hotmail.com
6.	Cale Christi		cale.austin@gmail.com
7.	Will C. Crawford		willnpatty@comcast.net
8.	Anne White	Oregon Natural Desert Association	anne@onda.org
9.	Lisa Brown	WaterWatch of Oregon	lisa@waterwatch.org
10.	Siskiyou Rising Tide		sorisingtide@gmail.com
11.	CJ Callao	People of Red Mountain	cjcallao@hotmail.com
12.	Ka'ila Farrell-Smith		kaila@kailafarrellsmith.com
13.	Max Wilbert		max@maxwilbert.org

Comments submitted through the online electronic public comment portal:

Application: LL 1941
Marisa Meyer
U.S. Fish and Wildlife Service
marisa_meyer@fws.gov
Thank you for the opportunity to provide input related to McGinley & Associates, Inc. (McGinley), on behalf of HiTech Minerals, Inc. (HiTech) application to Oregon's Water Resources Department (OWRD) for a Limited Water Use License (Limited License Application LL-1941). Because the proposed well is located within the McDermitt Basin it could have impacts to the federally-listed threatened Lahontan Cutthroat Trout (Oncorhynchus clarkii henshawi), and the project is of key concern to the U.S. Fish and Wildlife Service (Service). All waters in the McDermitt Creek drainage are important to Lahontan Cutthroat Trout. The groundwater supply of baseflow to streams is important for Lahontan Cutthroat Trout in this arid region. Because of the nature of drought and how meta-populations work for Lahontan Cutthroat Trout, this system must function throughout to ensure population resiliency and ultimately recovery and delisting of the species. Currently, there are at least three isolated, genetically pure Lahontan Cutthroat Trout populations on Sage Creek, Line Canyon Creek, and Corral Canyon Creek, with a fourth population that may persist in Riser Creek. Each of these streams are key tributaries to McDermitt Creek, a historic Lahontan Cutthroat Trout stream that is potentially suitable habitat. Because current population data for Lahontan Cutthroat Trout is lacking within the proposed project area, the Service is concerned about any proposed water use located in or near potential Lahontan Cutthroat Trout habitat or waterways that act as tributaries to McDermitt Creek, specifically: • Potential reduction in surface water and groundwater quantity resulting from groundwater withdrawal; • Impacts to springs and flow in tributaries connected to McDermitt Creek; and • Potential effects to ground and surface water quality due to construction associated with exploration activities. Given the lack of baseline hydrological data (e.g., surface and ground water), the Service is concerned about how impacts to water resources will be analyzed. Before water rights are issued and operations begin, the Service recommends that stream flow monitoring be performed, in lieu of water availability data, which can

document baseline conditions to help demonstrate that this is a sustainable use. This is a sensitive system due to the limited amount of recharge, which could be further reduced under climate change. The Service further recommends that a groundwater model be developed to predict impacts to surface and groundwater and that modeled projections are considered when evaluating the request for water use. Once a thorough analysis of baseline data and groundwater modeling is completed, should OWRD approve the limited license, the Service recommends the following terms be included: 1) specification of water quality and quantity metrics and thresholds that would serve to trigger adaptive management of the permit; and 2) a requirement of weekly water use monitoring and reporting of these metrics to provide early warning of potentially undesirable and/or unanticipated impacts to water resources. In closing, we would like to reiterate our appreciation for the opportunity to provide comments on HiTech's application to OWRD for limited water use rights in Malheur County near McDermitt, Oregon. If you have any questions or require further information regarding these comments please contact either Jackie Cupples (La Grande Field Office; 541-962-8593; jacqueline_cupples@fws.gov) or Dawn Davis (Bend Field Office; 775-532-4029; dawn_davis@fws.gov). Sincerely, Marisa Meyer Field Supervisor cc: Tom Segal, Nigel Seidel, and Dave Banks, Oregon Department of Fish and Wildlife

Application: LL 1941

Marisa Meyer
U.S. Fish and Wildlife Service
marisa_meyer@fws.gov

To whom it may concern: Apologies for resubmitting our comments. It came to our attention that new information was available for Lahontan Cutthroat Trout which is reflected in the revised version of our comment letter below: *** Thank you for the opportunity to provide input related to McGinley & Associates, Inc. (McGinley), on behalf of HiTech Minerals, Inc. (HiTech) application to Oregon's Water Resources Department (OWRD) for a Limited Water Use License (Limited License Application LL-1941). Because the proposed well is located within the McDermitt Basin it could have impacts to the federally-listed threatened Lahontan Cutthroat Trout (Oncorhynchus clarkii henshawi), and the project is of key concern to the U.S. Fish and Wildlife Service (Service). All waters in the McDermitt Creek drainage are important to Lahontan Cutthroat Trout. The groundwater supply of baseflow to streams is important for Lahontan Cutthroat Trout in this arid region. Because of the nature of drought and how meta-populations work for Lahontan Cutthroat Trout, this system must function throughout to ensure population resiliency and ultimately recovery and delisting of the species. Currently, there are at least two isolated, genetically pure Lahontan Cutthroat Trout populations on Line Canyon Creek and Corral Canyon Creek, with a two additional populations that may persist in Riser and Cottonwood Creeks. Each of these streams are key tributaries to McDermitt Creek, a historic Lahontan Cutthroat Trout stream that is potentially suitable habitat. Because current population data for Lahontan Cutthroat Trout is lacking within the proposed project area, the Service is concerned about any proposed water use located in or near potential Lahontan Cutthroat Trout habitat or waterways that act as tributaries to McDermitt Creek, specifically: • Potential reduction in surface water and groundwater quantity resulting from groundwater withdrawal; • Impacts to springs and flow in tributaries connected to McDermitt Creek; and • Potential effects to ground and surface water quality due to construction associated with exploration activities. Given the lack of baseline hydrological data (e.g., surface and ground water), the Service is concerned about how impacts to water resources will be analyzed. Before water rights are issued and operations begin, the Service recommends that stream flow monitoring be performed, in lieu of water availability data, which can document baseline conditions to help demonstrate that this is a

sustainable use. This is a sensitive system due to the limited amount of recharge, which could be further reduced under climate change. The Service further recommends that a groundwater model be developed to predict impacts to surface and groundwater and that modeled projections are considered when evaluating the request for water use. Once a thorough analysis of baseline data and groundwater modeling is completed, should OWRD approve the limited license, the Service recommends the following terms be included: 1) specification of water quality and quantity metrics and thresholds that would serve to trigger adaptive management of the permit; and 2) a requirement of weekly water use monitoring and reporting of these metrics to provide early warning of potentially undesirable and/or unanticipated impacts to water resources. In closing, we would like to reiterate our appreciation for the opportunity to provide comments on HiTech's application to OWRD for limited water use rights in Malheur County near McDermitt, Oregon. If you have any questions or require further information regarding these comments please contact either Jackie Cupples (La Grande Field Office; 541-962-8593; jacqueline_cupples@fws.gov) or Dawn Davis (Bend Field Office; 775-532-4029; dawn_davis@fws.gov). Sincerely, Marisa Meyer Field Supervisor cc: Tom Segal, Nigel Seidel, and Dave Banks, Oregon Department of Fish and Wildlife

Application: LL 1941
katie fite
wildlands defense
katie@wildlandsdefense.org
Hello, First, the form freezes up when I try typing in my phone number. WildLands Defense is a 501c3 non-profit that works on biodiversity and public lands wildlife and watershed protection in the Interior West. we will be submitting additional comments, but want to bring a matter of significance to your attention. The Hi-Tech Jindalee application is right by the Nevada state line and is in the Quinn River Basin. Oregon state agency documents associated with this application provide limited to no information on the status of the allocation of water rights in the Quinn Basin in Nevada. There is significant reported over-allocation of water in the Quinn Basin. I became aware of this through working on environmental issues associated with the Thacker Pass lithium mine near Orovada in the Quinn Basin There are also an extremely large number of recently filed lithium mining claims all along the sagebrush expanses on the east side of the Montana Mountains just across the state line in Nevada. So there are major looming foreseeable additional water rights issues in Nevada in the already over-allocated Quinn Basin. In Oregon itself both Oregon Energy LLC and Aurora are conducting exploratory drilling for lithium - it is my understanding Oregon Energy started drilling exploration and FMS may soon be doing the same.So there may be major looming stresses on water resources in the Mcdermitt area alone. Further, Oregon Senators Wyden and Merkley have introduced the River Democracy Bill that would designate some streams in Oregon McDermitt Creek watershed as Wild and Scenic River segments. Additionally, Jindalee in seeking to drill the well to which this water right would be attached makes an end run around the federal NEPA Process. BLM is about to commence an EA under NEPA for a major and controversial new stage of JIndalee/Hi-Tech drilling in Sage-grouse Priority/Focal habitat. ALL the Jindalee claims area was proposed to be withdrawn for Mineral Entry under the 2015 Sage-grouse Plans - it was identified as Focal Habitat - the best of the best - and remains Sage-grouse Priority habitat. Instead of analyzing this well and the full environmental baseline and impacts that may be associated with this well and water right and water use under that NEPA process, the mining company is seeking to shoehorn the well in under the initial "Notice" BLM level of activity. There is no public comment and no NEPA environmental analysis of "Notice" level activities under BLM mining regulations. Essentially, the

public is shut out of the process. We have many other concerns, but wanted to get these on the record now for context and following up on my phone call inquiry to OWRD today. We urge the Oregon Department of Water Resources, as part of this Jindalee Hi-Tech project application review, to study and assess the water situation in the Quinn Basin, and to seek information from its sister agency in Nevada about the study of water rights and ground and surface water allocations - prior to approval of this application. Thank you, Katie Fite WildLands Defense PO Box 125 Boise, ID 83701 208-871-5738

Application: LL 1941
Jaimi Wilkinson
GJ Livestock LLC
gjbeef@outlook.com
I am writing on behalf of my family, who has ranched in this area for six generations. We have worked tirelessly to protect and promote the thoughtful use of natural resources through comprehensive planning, environmental stewardship and a shared vision of a stronger, healthier and more sustainable environment for all to thrive and grow. The HITECH MINERALS INC. application for a well in Cherokee Creek for Mineral exploration is not in the public's best interest. This well could pose a significant impact on on the Lahontan Cutthroat Trout which is listed as federally threatened. The Oregon DEQ Division 33 Review clearly states that Cherokee Creek does not meet Oregon's stream temperature standards. Stream temperatures that exceed the standard can disrupt the life cycle of a threatened fish species and may even cause death. The Water Resources Department also stated, "Increasing development in this area has the potential to impair the limited groundwater resource if not approached with caution." The Cherokee Well is only the beginning of the destruction on disruption of our business. It will destroy the Federally Listed Threatened Lahontan Cutthroat Trout and threatens Sage Grouse lek sites with new roads and drilling. The watershed will be mutilated and for what? To turn this beautiful basin into a strip mine. Do better OREGON, the world is watching! Jaimi Wilkinson

Application: LL 1941
Randall Sinnott
Randall.sinnott@gmail.com
Hello I have visited the McDermitt Caldera many times in the past years. McDermitt Creek has always been the anchor for all that lives in the area, especially the Lahonton cutthroat trout that live in the creek. The creek is only there because of the aquifer below it. If the aquifer is drawn down it will be the end of McDermitt Creek. It's already disappearing because of drought in the region. Many people use this area — ranchers, native peoples, hunters, bird watchers (especially those interested in the greater sage grouse) rock hounds, hikers, campers, botanists and night sky gazers. A lithium mine would remove this entire caldera from these uses. Please don't destroy this part of Oregon. Granting water rights to a high use enterprise like open pit mining will do just that.

Application: LL 1941
Carolyn Hintz
sackettandjetta@hotmail.com
Hello. I spent a few days walking / camping and gathering data in the McDermitt Caldera last month w/ONDA. I am very concerned at Jindalee, and other companies, making progress in their exploration of the area. As you and anyone who lives in Oregon knows, we are in the midst of a drought and have been for several years. The aquifer, in which they propose to get their water, is connected to streams and will probably affect water for residents, plants, animals and farmers in the region. This is only one of many

reasons to stop this exploration now. We have so few places left in the state that are unspoiled. The wild sage in that region is fragile and an important part of our ecosystem. GO OUT THERE. SEE FOR YOURSELF. If you truly look around and see the animals and people who live around there and whose health depends on the area staying as pure as possible, I cannot imagine you would think it is a good idea to greatly disturb this land. Please let's hold onto this region as it is. Thank you.

Application: LL 1941
Cale Christi
cale.austin@gmail.com
I am writing to respectfully request that the Oregon Water Resources Department deny HiTech Minerals application for a limited water license in the state of Oregon. HiTech Minerals is a subsidiary of the Australian corporation Jindalee Resources and they should not be taking water from Oregon in order to further their monetary interests. The state of Oregon is already suffering from decades of draught and the region in which HiTech is applying to take groundwater, Malheur County, has been declared in a state of draught emergency by Oregon's governor during six of the last ten years. Furthermore, McDermitt Creek and its tributaries provide important habitat for the Lahontan cutthroat trout, a species that is already federally recognized as threatened. Inputs of cold, clean, groundwater are vital to the health of these streams and the fish. Please do not allow monetary interests to damage the fragile health of our desert ecosystems. Please deny any license/permit which would allow private interests to take our water in hopes of increasing their profit margins. Sincerely, Cale Christi

Application: LL 1941
Will C. Crawford
willnpatty@comcast.net
Due to extreme drought conditions. critical wildlife habitat, that groundwater feeds underground aquifer, that the project will destroy this area, it is imperative that no drilling or other construction be allowed in McDermitt Crater related to mining.

Application: LL 1941
Anne White
Oregon Natural Desert Assocation
anne@onda.org
July 11, 2023 Mary Bjork Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, Oregon 97301 Sent via WRIS and email to Mary.F.BJORK@water.oregon.gov RE: Application LL-1941, HiTech Minerals, Inc., a Jindalee Resources Limited Company, to Support Exploration for a Lithium Mine Dear Ms. Bjork: Thank you for the opportunity to comment on Application LL-1941, HiTech Minerals, Inc., a subsidiary of Jindalee Resources Limited Co. (Jindalee). This application seeks authorization to use groundwater for mineral exploration for a potential lithium mine on federal public lands in southeastern Oregon. Jindalee claims its McDermitt project is the largest lithium deposit discovered in the United States, elevating the importance of ensuring that any water right applications are properly processed and fully evaluated. Oregon Natural Desert Association (ONDA) is a public interest conservation organization whose mission is to protect, defend, and restore Oregon's high desert for current and future generations. We are the only organization dedicated exclusively to conserving Oregon's native desert lands, waters, and wildlife. ONDA represents more than 14,000 members and supporters in Oregon and beyond who regularly use and visit public lands in southeastern Oregon, including in the McDermitt Caldera. The management, conservation, and restoration of these lands and resources is of

significant interest to our members, supporters, and staff for a variety of professional, personal, recreational, aesthetic, spiritual, and other reasons. WaterWatch of Oregon (WaterWatch) is a non-profit river conservation group whose mission is protect and restore instream flows in Oregon rivers for native fish, wildlife, and the people who depend on healthy rivers. Founded in 1985, WaterWatch was the first organization in the West to seek structural reform of antiquated water laws to protect and restore our rivers. WaterWatch has 1,000 members and works across Oregon to promote sound water policy, ensure that Oregon's water code and rules are correctly applied, and to advocate for the public interest in water allocation decisions. WaterWatch has invested significant time and resources to protecting the streams and rivers of southeastern Oregon, with extensive work focused on protecting the groundwater that supports these systems. WaterWatch and its members regularly enjoy the waterways of southeastern Oregon and have significant interests in conserving the federally threatened Lahontan cutthroat trout. ONDA and WaterWatch offer the following comments on Application LL-1941. 1. The application requests the use of 0.167 cfs (nearly 108,000 gallons per day) for a period of five years from an aquifer that the Oregon Water Resources Department (OWRD) Groundwater Review determined is hydraulically connected to Hot Creek (also called Cherokee Creek), Payne Creek and McDermitt Creek. McDermitt Creek and its tributaries provide important habitat for the federally threatened Lahontan cutthroat trout and have been the focus of extensive restoration activities over the past few decades by state and federal agencies, local landowners and public lands users. This location is extremely important to conserving threatened Lahontan cutthroat trout as it is the only location capable of supporting a resilient and diverse population in the larger management unit that spans Nevada and Oregon. Restoration efforts are focused on establishing a metapopulation of the species in this system. Data is lacking regarding the expected effects of LL-1941 on streamflows and stream temperature in these critically important streams. Extracting 108,000 gallons of water per day for five years is a significant amount of water in this arid region, where inputs of cold, clean groundwater are likely critical for supporting threatened Lahontan cutthroat trout and other native species. OWRD should not authorize any water use that potentially jeopardizes ongoing, multi-stakeholder restoration efforts in the hydraulically connected streams. 2. OWRD should deny this limited license application due to the lack of data regarding the groundwater resource and the streamflows in the hydraulically connected surface waters. Given the lack of data, OWRD cannot support a finding that water is available or that the public interest will not be impaired. 3. OWRD erred in failing to evaluate the effect on streamflows after five years of pumping (see. e.g., C.V. Theis, The Source of Water Derived From Wells). The Groundwater Review for Application LL-1941 appears to have applied only a 30-day test, which is not supported by available evidence as the effects of pumping would continue to increase over the life of any permit. To ensure consistency with Oregon's Groundwater Act, OWRD should revise its Groundwater Review to consider the full impacts that the proposed pumping would have on nearby streams. Fully considering the impacts from the proposed pumping is especially important given the importance of the surface waters for threatened Lahontan cutthroat trout, as well as the Oregon Department of Environmental Quality's concerns related to water quality issues. 4. In reviewing Application LL-1941, OWRD must ensure that no domestic wells, including in Nevada, will be adversely impacted. OWRD's over-issuance of groundwater permits in many parts of the state, particularly in areas where it lacked data regarding the groundwater resource as is the case here, has resulted in devastating impacts to domestic wells and the people who rely on those wells for drinking water. We urge OWRD to map all domestic wells that may be impacted if groundwater is pumped in this area and to ensure that none of these wells would be adversely impacted by any groundwater pumping.5. The application does not describe any road

construction activity related to the proposed well. It appears to be an application to use water for mineral exploration only. The Water Right Information System should be corrected to reflect this or Jindalee should provide details on how water would be used to support road construction activities. In sum, this limited license application is in an arid landscape that is also extremely important to conservation of federally threatened Lahontan cutthroat trout. Streams that are hydraulically connected to the aquifer from which Jindalee proposes to pump are the focus of decades-long, multi-stakeholder restoration efforts. ONDA and WaterWatch request that the application be denied. If OWRD moves forward with the application, the review must fully consider any impacts that pumping under the limited license would have on streamflows over the full permit period. Thank you for considering these comments. Sincerely, Anne White Wildlands Coordinator Oregon Natural Desert Association 50 SW Bond Street, Suite 4 Bend, Oregon 97702 541.330.2638 x310 anne@onda.org Lisa A. Brown Staff Attorney WaterWatch of Oregon 213 SW Ash Street., Suite 208 Portland, Oregon 97202 503.295.4039 x102 lisa@waterwach.org

Application: LL 1941
Lisa Brown
WaterWatch of Oregon
lisa@waterwatch.org
Thank you for the opportunity to comment on application LL-1941. WaterWatch joins the comments that the Oregon Natural Desert Association has submitted to WRIS, which have also been submitted separately by letter due to formatting issues and word limits in WRIS. Thank you for considering our comments.

Application: LL 1941
Siskiyou Rising Tide
sorisingtide@gmail.com
July 10, 2023 Public Comment: Application LL-1941 Siskiyou Rising Tide, based in rural Southern Oregon, is dedicated to promoting community- based solutions to the climate crisis and taking direct action to confront the root causes of climate change. We are writing asking you to oppose the limited license permit application (LL-1941) applied for by Hitech Minerals, Inc for the proposed Jindalee lithium mine because the applicant will impair and be detrimental to the public interest. - The State of Oregon has very little data on groundwater and streamflow in the McDermitt Creek basin and should not be allowing HiTech to pump water from the aquifer, which the state has determined is connected to streamflows. - McDermitt Creek and its tributaries provide important habitat for the federally threatened Lahontan cutthroat trout. For decades, state and federal agencies, local landowners and public lands users have undertaken restoration efforts to establish a metapopulation of the species in this system, which is the only location capable of supporting a resilient and diverse population in the larger management unit that spans Nevada and Oregon. In many streams, inputs of cold, clean groundwater are critical to maintaining the streamflows and cool water needed by these fish. Oregon should not authorize groundwater pumping when it lacks adequate data to understand the impacts on Lahontan cutthroat trout habitat. - Oregon is in the midst of a decades-long drought, with southeastern Oregon being particularly affected. In six of the last ten years, Oregon's Governor has declared a drought emergency in Malheur County, underscoring the severity of water shortages in the region. The Oregon Climate Change Research Institute's Sixth Oregon Climate Assessment found that droughts will become more frequent, widespread, and severe across the state, especially in Southern Oregon. Under current emissions trends, seasonal droughts are projected to last 11 to 33 percent longer and be at least 40

percent more severe by the end of the century. (https://energyinfo.oregon.gov/blog/2023/1/11/occris-sixth-climate-assessment-outlines-climate-change-effects-on-oregon) - Without adequate data, it is impossible to determine whether or not HiTech's proposed well, even temporary pumping for five years, would have no detrimental or adverse impacts to water availability or quality available in the McDermitt Creek Basin. - HiTech's application for a temporary well is just the first of what are anticipated to be many other requests to follow for both temporary wells and huge diversions to support mining operations in the region. I am concerned about the potential impacts of well development and groundwater extraction on the environment, economy and the future of my community (including people who rely on domestic wells for drinking water and household use). While the world works to transition off fossil fuels, we must not allow communities, the environment, and Oregon's limited water resources to be sacrificed for so-called "green" technologies. A 2023 report from Climate + Community Project finds that "the United States can achieve zero emissions transportation while limiting the amount of lithium mining necessary by reducing the car dependence of the transportation system, decreasing the size of electric vehicle batteries, and maximizing lithium recycling. Reordering the US transportation system through policy and spending shifts to prioritize public and active transit while reducing car dependency can also ensure transit equity, protect ecosystems, respect Indigenous rights, and meet the demands of global justice." (https://www.climateandcommunity.org/more-mobility-less-mining) Oregon must invest in these community solutions rather than allowing permits for the Jindalee lithium mine which would undoubtedly impair Oregon's water resources and be detrimental to the public interest. Thank you for the consideration of our request to deny HiTech Mineral's limited use permit application. Siskiyou Rising Tide sorisingtide@gmail.com

Application: LL 1941
CJ Callao
People of Red Mountain
cjcallao@hotmail.com
I am writing these concerns in regard to HiTech Minerals applying for a limited water license in the McDermitt Caldera. This permit would have a five-year duration and authorize the company to pump up to 75 gallons per minute, or 41,250 gallons per day to support additional exploratory drilling and road maintenance. There is inadequate data to determine whether or not HiTech's proposed well would have no detrimental or adverse impacts to water availability or quality available in the McDermitt Creek basin. This basin is already battling with over allocated water for area and the quality of water in the actual town of McDermitt is still suffering from the aftermaths of the abandoned Cordero Mercury Mine. The town of McDermitt has high levels of arsenic. At times the levels are so high, the water is unsafe to drink for all. For over two consecutive years, drinking water had to be delivered from 75 miles away to each home in McDermitt due to the high levels of arsenic. Today, the drinking water in the town of McDermitt is still struggling. Humboldt County had to raise the levels of arsenic allowed for the public water for the town to pass safe drinking water guidelines. There are still guidelines in place for elders and children NOT to drink the tap water in the town of McDermitt, but it is ok for the rest of us. Does this mean my life is less important than elders and children because I fall in a category that can handle high levels of arsenic? Is there data to prove it is ok for me to drink high levels of arsenic? Due to this inadequate data for the water permits, please do not pass these permits. This town cannot handle the impacts of water availability and another impact to the quality of the water.

Comments submitted by email:

Application: LL 1941

Ka'ila Farrell-Smith, MFA
Klamath Modoc
kaila@kailafarrellsmith.com

Public Comment for Jindalee's subsidiary HiTech Minerals limited water license on LL-1941
July 12, 2023
To Oregon Water Resources Department,
My name is Ka'ila Farrell-Smith, I'm an enrolled member of the Klamath Tribes of Oregon, I reside in Chiloquin, Oregon. I am a professional artist and environmental activist. My father, the late Alfred Leo Smith (1919-2014), plaintiff in the 1994 Amendment to the Native American Freedom of Religion act, is a survivor of Chemawa Indian Boarding School and the Stewart Indian Boarding school, circa mid 1930's. I traveled as a child to Ft McDermitt to participate in Native American ceremonies with my family. I am deeply concerned about the drastic environmental and cultural impacts of the Jindalee's (a foreign Australian corporation) proposed lithium mine at Ft. McDermitt Tribal reservation on the Oregon and Nevada border. Proper, respectful, and thorough consultation will need to be conducted with the Indigenous Tribes and Sovereign Nations whose sacred ancestral lands this lithium deposit resides within, to get true consent. This is required by the United Nations Declaration on Rights of Indigenous Peoples (UNDRIP).
Regarding this five-year permit for limited water license requested by Jindalee's subsidiary HiTech Minerals, the Oregon Water Resources Department (OWRD) should deny this request due to lack of data on groundwater and streamflow in the McDermitt Creek basin. OWRD should not allow HiTech to pump water from the aquifer, which the state has determined is connected to streamflows.

McDermitt Creek and its tributaries provide important habitat for the federally threatened Lahontan cutthroat trout. For decades, state and federal agencies, local landowners and public lands users have undertaken restoration efforts to establish a metapopulation of the species in this system, which is the only location capable of supporting a resilient and diverse population in the larger management unit that spans Nevada and Oregon. In many streams, inputs of cold, clean groundwater are critical to maintaining the streamflows and cool water needed by these fish. Oregon should not authorize groundwater pumping when it lacks adequate data to understand the impacts on Lahontan cutthroat trout habitat.

Oregon is in the midst of a decades-long drought, with southeastern Oregon being particularly affected. In six of the last ten years, Oregon's Governor has declared a drought emergency in Malheur County, underscoring the severity of water shortages in the region.

Without adequate data, it is impossible to determine whether or not HiTech's proposed well, even temporary pumping for five years, would have no detrimental or adverse impacts to water availability or quality available in the McDermitt Creek basin.

HiTech's application for a temporary well is just the first of what are anticipated to be many other requests to follow for both temporary wells and huge diversions to support mining operations in the region. I am concerned about the potential impacts of well development and groundwater extraction on the environment, economy and the future of my community (including people who rely on domestic wells for drinking water and household use).

According to a petition brought by Fort McDermitt tribal members to the tribal council, tribal members have sacred connections with the area known as PeeheeMu'huh (Thacker Pass). Just south of the McDermitt lithium deposit on the Oregon side is another lithium mine proposed by a foreign Canadian corporation Lithium Americas. Both of these sites (Disaster Peak and Thacker Pass) are sacred to the Northern Paiute, Bannock, and Western Shoshone tribal peoples and are historic cultural sites of their ancestors escaping a massacre by the US government in the 1860's. The petition states the mine will destroy sacred burial grounds; will eliminate traditional ceremonial and spiritual medicine including toza; will destroy ceremonial roots, berries, and plants; and will disturb 12 golden eagle nests, deer, rabbits, sage grouse, Lahontan cutthroat, and essential ceremony old growth sage brush that tribal members need for survival.

Sincerely,
Ka'ila Farrell-Smith (Klamath Modoc)
MFA, Hallie Ford Fellow 2021, Fields Artist Fellow 2019-2020
www.kailafarrellsmith.com
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Ka'ila Farrell-Smith, MFA
Klamath Modoc
www.kailafarrellsmith.com
kaila@kailafarrellsmith.com

Application: LL 1941
Max Wilbert
max@maxwilbert.org
Mon 7/17/2023

Hello Ms. Bjork,
I'd like to submit a comment on HiTech Minerals application for water rights related to test drilling and exploratory activities in the McDermitt Creek basin in southeastern Oregon.

This region is one of the most important sage grouse and Lahontan cutthroat trout habitats left. The aquifer in this region is almost certain to be directly connected to McDermitt Creek. It's also a culturally important site to regional tribes. Authorizing additional water extraction here would mean the destruction of additional habitat and disturbance of wildlife.

I urge you to halt this project and deny this water rights application.

Please add me to your notification list for any further developments related to the HiTech Minerals exploration or lithium mine projects in Oregon.

Sincerely,

Max Wilbert
Max Wilbert max@maxwilbert.org

Comments received from:

1.	Marisa Meyer	U.S. Fish and Wildlife Service	marisa_meyer@fws.gov
2.	katie fite	wildlands defense	katie@wildlandsdefense.org
3.	Jaimi Wilkinson	GJ Livestock LLC	gjbeef@outlook.com
4.	Randall Sinnott		Randall.sinnott@gmail.com
5.	Carolyn Hintz		sackettandjetta@hotmail.com
6.	Cale Christi		cale.austin@gmail.com
7.	Will C. Crawford		willnpatty@comcast.net
8.	Anne White	Oregon Natural Desert Association	anne@onda.org
9.	Lisa Brown	WaterWatch of Oregon	lisa@waterwatch.org
10.	Siskiyou Rising Tide		sorisingtide@gmail.com
11.	CJ Callao	People of Red Mountain	cjcallao@hotmail.com
12.	Ka'ila Farrell-Smith		kaila@kailafarrellsmith.com
13.	Max Wilbert		max@maxwilbert.org

Marisa Meyer - U.S. Fish and Wildlife Service (copied from electronically submitted comments online)

Thank you for the opportunity to provide input related to McGinley & Associates, Inc. (McGinley), on behalf of HiTech Minerals, Inc. (HiTech) application to Oregon's Water Resources Department (OWRD) for a Limited Water Use License (Limited License Application LL-1941). Because the proposed well is located within the McDermitt Basin it could have impacts to the federally-listed threatened Lahontan Cutthroat Trout (Oncorhynchus clarkii henshawi), and the project is of key concern to the U.S. Fish and Wildlife Service (Service). All waters in the McDermitt Creek drainage are important to Lahontan Cutthroat Trout. The groundwater supply of baseflow to streams is important for Lahontan Cutthroat Trout in this arid region. Because of the nature of drought and how meta-populations work for Lahontan Cutthroat Trout, this system must function throughout to ensure population resiliency and ultimately recovery and delisting of the species. Currently, there are at least **three** isolated, genetically pure Lahontan Cutthroat Trout populations on Sage Creek, Line Canyon Creek, and Corral Canyon Creek, with a fourth population that may persist in Riser Creek. Each of these streams are key tributaries to McDermitt Creek, a historic Lahontan Cutthroat Trout stream that is potentially suitable habitat. Because current population data for Lahontan Cutthroat Trout is lacking within the proposed project area, the Service is concerned about any proposed water use located in or near potential Lahontan Cutthroat Trout habitat or waterways that act as tributaries to McDermitt Creek, specifically: • Potential reduction in surface water and groundwater quantity resulting from groundwater withdrawal; • Impacts to springs and flow in tributaries connected to McDermitt Creek; and • Potential effects to ground and surface water quality due to construction associated with exploration activities. Given the lack of baseline hydrological data (e.g., surface and ground water), the Service is concerned about how impacts to water resources will be analyzed. Before water rights are issued and operations begin, the Service recommends that stream flow monitoring be performed, in lieu of water availability data, which can document baseline conditions to help demonstrate that this is a sustainable use. This is a sensitive system due to the limited amount of recharge, which could be further reduced under climate change. The Service further recommends that a groundwater model be developed to predict impacts to surface and groundwater and that modeled projections are considered when evaluating the request for water use.

Once a thorough analysis of baseline data and groundwater modeling is completed, should OWRD approve the limited license, the Service recommends the following terms be included:

1) specification of water quality and quantity metrics and thresholds that would serve to trigger adaptive management of the permit; and
2) a requirement of weekly water use monitoring and reporting of these metrics to provide early warning of potentially undesirable and/or unanticipated impacts to water resources.

In closing, we would like to reiterate our appreciation for the opportunity to provide comments on HiTech's application to OWRD for limited water use rights in Malheur County near McDermitt, Oregon. If you have any questions or require further information regarding these comments please contact either Jackie Cupples (La Grande Field Office; 541-962-8593; jacqueline_cupples@fws.gov) or Dawn Davis (Bend Field Office; 775-532-4029; dawn_davis@fws.gov). Sincerely, Marisa Meyer Field Supervisor cc: Tom Segal, Nigel Seidel, and Dave Banks, Oregon Department of Fish and Wildlife

Marisa Meyer - U.S. Fish and Wildlife Service (copied from electronically submitted comments online)
To whom it may concern: Apologies for resubmitting our comments. It came to our attention that new information was available for Lahontan Cutthroat Trout which is reflected in the revised version of our comment letter below: ***

Thank you for the opportunity to provide input related to McGinley & Associates, Inc. (McGinley), on behalf of HiTech Minerals, Inc. (HiTech) application to Oregon's Water Resources Department (OWRD) for a Limited Water Use License (Limited License Application LL-1941). Because the proposed well is located within the McDermitt Basin it could have impacts to the federally-listed threatened Lahontan Cutthroat Trout (Oncorhynchus clarkii henshawi), and the project is of key concern to the U.S. Fish and Wildlife Service (Service). All waters in the McDermitt Creek drainage are important to Lahontan Cutthroat Trout. The groundwater supply of baseflow to streams is important for Lahontan Cutthroat Trout in this arid region. Because of the nature of drought and how meta-populations work for Lahontan Cutthroat Trout, this system must function throughout to ensure population resiliency and ultimately recovery and delisting of the species. Currently, there are at least two isolated, genetically pure Lahontan Cutthroat Trout populations on Line Canyon Creek and Corral Canyon Creek, with a two additional populations that may persist in Riser and Cottonwood Creeks. Each of these streams are key tributaries to McDermitt Creek, a historic Lahontan Cutthroat Trout stream that is potentially suitable habitat. Because current population data for Lahontan Cutthroat Trout is lacking within the proposed project area, the Service is concerned about any proposed water use located in or near potential Lahontan Cutthroat Trout habitat or waterways that act as tributaries to McDermitt Creek, specifically: • Potential reduction in surface water and groundwater quantity resulting from groundwater withdrawal; • Impacts to springs and flow in tributaries connected to McDermitt Creek; and • Potential effects to ground and surface water quality due to construction associated with exploration activities. Given the lack of baseline hydrological data (e.g., surface and ground water), the Service is concerned about how impacts to water resources will be analyzed. Before water rights are issued and operations begin, the Service recommends that stream flow monitoring be performed, in lieu of water availability data, which can document baseline conditions to help demonstrate that this is a sustainable use. This is a sensitive system due to the limited amount of recharge, which could be further reduced under climate change. The Service further recommends that a groundwater model be developed to predict impacts to surface and groundwater and that modeled projections are considered when evaluating the request for water use. Once a thorough analysis of baseline data and groundwater modeling is completed, should OWRD approve the limited license, the Service recommends the following terms be included: 1) specification of water quality and quantity metrics and thresholds that would serve to trigger adaptive management of the permit; and 2) a requirement of weekly water use monitoring and reporting of these metrics to provide early warning of potentially undesirable and/or unanticipated impacts to water resources. In

closing, we would like to reiterate our appreciation for the opportunity to provide comments on HiTech's application to OWRD for limited water use rights in Malheur County near McDermitt, Oregon. If you have any questions or require further information regarding these comments please contact either Jackie Cupples (La Grande Field Office; 541-962-8593; jacqueline_cupples@fws.gov) or Dawn Davis (Bend Field Office; 775-532-4029; dawn_davis@fws.gov). Sincerely, Marisa Meyer Field Supervisor cc: Tom Segal, Nigel Seidel, and Dave Banks, Oregon Department of Fish and Wildlife

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Katie Fite - Wildlands Defense (copied from electronically submitted comments online, additional comments and related documents sent by email and are available at:
Katie Fite Re Courtesy Email for Replying Additional WLD documents on Jindalee Hi-Tech Water App LL-1941.msg
Katie Fite Re Courtesy Email for Replying.msg
Katie Fite LL-1941 Jindalee hi-Tech-7-11-2023.msg
Katie Fite LL-1941 Jindalee Hi-Tech water right.msg
Katie Fite LL-1941 Jindalee Hi-Tech.msg

Hello, First, the form freezes up when I try typing in my phone number. WildLands Defense is a 501c3 non-profit that works on biodiversity and public lands wildlife and watershed protection in the Interior West. we will be submitting additional comments, but want to bring a matter of significance to your attention. The Hi-Tech Jindalee application is right by the Nevada state line and is in the Quinn River Basin. Oregon state agency documents associated with this application provide limited to no information on the status of the allocation of water rights in the Quinn Basin in Nevada. There is significant reported over-allocation of water in the Quinn Basin. I became aware of this through working on environmental issues associated with the Thacker Pass lithium mine near Orovada in the Quinn Basin There are also an extremely large number of recently filed lithium mining claims all along the sagebrush expanses on the east side of the Montana Mountains just across the state line in Nevada. So there are major looming foreseeable additional water rights issues in Nevada in the already over-allocated Quinn Basin. In Oregon itself both Oregon Energy LLC and Aurora are conducting exploratory drilling for lithium - it is my understanding Oregon Energy started drilling exploration and FMS may soon be doing the same.So there may be major looming stresses on water resources in the Mcdermitt area alone. Further, Oregon Senators Wyden and Merkley have introduced the River Democracy Bill that would designate some streams in Oregon McDermitt Creek watershed as Wild and Scenic River segments. Additionally, Jindalee in seeking to drill the well to which this water right would be attached makes an end run around the federal NEPA Process. BLM is about to commence an EA under NEPA for a major and controversial new stage of JIndalee/Hi-Tech drilling in Sage-grouse Priority/Focal habitat. ALL the Jindalee claims area was proposed to be withdrawn for Mineral Entry under the 2015 Sage-grouse Plans - it was identified as Focal Habitat - the best of the best - and remains Sage-grouse Priority habitat. Instead of analyzing this well and the full environmental baseline and impacts that may be associated with this well and water right and water use under that NEPA process, the mining company is seeking to shoehorn the well in under the initial "Notice" BLM level of activity. There is no public comment and no NEPA environmental analysis of "Notice" level activities under BLM mining regulations. Essentially, the public is shut out of the process. We have many other concerns, but wanted to get these on the record now for context and following up on my phone call inquiry to OWRD today. We urge the Oregon Department of Water Resources, as part of this Jindalee Hi-Tech project application review, to study and assess the water situation in the Quinn Basin, and to seek information from its sister agency in Nevada about the study of water rights and ground and surface water allocations - prior to approval of this application. Thank you, Katie Fite WildLands Defense PO Box 125 Boise, ID 83701 208-871-5738

Jaimi Wilkinson - GJ Livestock LLC (copied from electronically submitted comments online)

I am writing on behalf of my family, who has ranched in this area for six generations. We have worked tirelessly to protect and promote the thoughtful use of natural resources through comprehensive planning, environmental stewardship and a shared vision of a stronger, healthier and more sustainable environment for all to thrive and grow. The HITECH MINERALS INC. application for a well in Cherokee Creek for Mineral exploration is not in the public's best interest. This well could pose a significant impact on on the Lahontan Cutthroat Trout which is listed as federally threatened. The Oregon DEQ Division 33 Review clearly states that Cherokee Creek does not meet Oregon's stream temperature standards. Stream temperatures that exceed the standard can disrupt the life cycle of a threatened fish species and may even cause death. The Water Resources Department also stated, "Increasing development in this area has the potential to impair the limited groundwater resource if not approached with caution." The Cherokee Well is only the beginning of the destruction on disruption of our business. It will destroy the Federally Listed Threatened Lahontan Cutthroat Trout and threatens Sage Grouse lek sites with new roads and drilling. The watershed will be mutilated and for what? To turn this beautiful basin into a strip mine. Do better OREGON, the world is watching! Jaimi Wilkinson

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Randall Sinnott (copied from electronically submitted comments online)

Hello I have visited the McDermitt Caldera many times in the past years. McDermitt Creek has always been the anchor for all that lives in the area, especially the Lahonton cutthroat trout that live in the creek. The creek is only there because of the aquifer below it. If the aquifer is drawn down it will be the end of McDermitt Creek. It's already disappearing because of drought in the region. Many people use this area — ranchers, native peoples, hunters, bird watchers (especially those interested in the greater sage grouse) rock hounds, hikers, campers, botanists and night sky gazers. A lithium mine would remove this entire caldera from these uses. Please don't destroy this part of Oregon. Granting water rights to a high use enterprise like open pit mining will do just that.

Carolyn Hintz (copied from electronically submitted comments online)

Hello. I spent a few days walking / camping and gathering data in the McDermitt Caldera last month w/ONDA. I am very concerned at Jindalee, and other companies, making progress in their exploration of the area. As you and anyone who lives in Oregon knows, we are in the midst of a drought and have been for several years. The aquifer, in which they propose to get their water, is connected to streams and will probably affect water for residents, plants, animals and farmers in the region. This is only one of many reasons to stop this exploration now. We have so few places left in the state that are unspoiled. The wild sage in that region is fragile and an important part of our ecosystem. GO OUT THERE. SEE FOR YOURSELF. If you truly look around and see the animals and people who live around there and whose health depends on the area staying as pure as possible, I cannot imagine you would think it is a good idea to greatly disturb this land. Please let's hold onto this region as it is. Thank you.

Cale Christi (copied from electronically submitted comments online)

I am writing to respectfully request that the Oregon Water Resources Department deny HiTech Minerals application for a limited water license in the state of Oregon. HiTech Minerals is a subsidiary of the Australian corporation Jindalee Resources and they should not be taking water from Oregon in order to further their monetary interests. The state of Oregon is already suffering from decades of draught and the region in which HiTech is applying to take groundwater, Malheur County, has been declared in a state of draught emergency by Oregon's governor during six of the last ten years. Furthermore, McDermitt Creek and its tributaries provide important habitat for the Lahontan cutthroat trout, a species that is already federally recognized as threatened. Inputs of cold, clean, groundwater are vital to the health of these streams and the fish. Please do not allow monetary interests to damage the fragile

health of our desert ecosystems. Please deny any license/permit which would allow private interests to take our water in hopes of increasing their profit margins. Sincerely, Cale Christi

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Will C. Crawford (copied from electronically submitted comments online)

Due to extreme drought conditions. critical wildlife habitat, that groundwater feeds underground aquifer, that the project will destroy this area, it is imperative that no drilling or other construction be allowed in McDermitt Crater related to mining.

Anne White (copied from electronically submitted comments online)

July 11, 2023 Mary Bjork Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, Oregon 97301 Sent via WRIS and email to Mary.F.BJORK@water.oregon.gov RE: Application LL-1941, HiTech Minerals, Inc., a Jindalee Resources Limited Company, to Support Exploration for a Lithium Mine

Dear Ms. Bjork: Thank you for the opportunity to comment on Application LL-1941, HiTech Minerals, Inc., a subsidiary of Jindalee Resources Limited Co. (Jindalee). This application seeks authorization to use groundwater for mineral exploration for a potential lithium mine on federal public lands in southeastern Oregon. Jindalee claims its McDermitt project is the largest lithium deposit discovered in the United States, elevating the importance of ensuring that any water right applications are properly processed and fully evaluated.

Oregon Natural Desert Association (ONDA) is a public interest conservation organization whose mission is to protect, defend, and restore Oregon's high desert for current and future generations. We are the only organization dedicated exclusively to conserving Oregon's native desert lands, waters, and wildlife. ONDA represents more than 14,000 members and supporters in Oregon and beyond who regularly use and visit public lands in southeastern Oregon, including in the McDermitt Caldera. The management, conservation, and restoration of these lands and resources is of significant interest to our members, supporters, and staff for a variety of professional, personal, recreational, aesthetic, spiritual, and other reasons.

WaterWatch of Oregon (WaterWatch) is a non-profit river conservation group whose mission is protect and restore instream flows in Oregon rivers for native fish, wildlife, and the people who depend on healthy rivers. Founded in 1985, WaterWatch was the first organization in the West to seek structural reform of antiquated water laws to protect and restore our rivers. WaterWatch has 1,000 members and works across Oregon to promote sound water policy, ensure that Oregon's water code and rules are correctly applied, and to advocate for the public interest in water allocation decisions. WaterWatch has invested significant time and resources to protecting the streams and rivers of southeastern Oregon, with extensive work focused on protecting the groundwater that supports these systems. WaterWatch and its members regularly enjoy the waterways of southeastern Oregon and have significant interests in conserving the federally threatened Lahontan cutthroat trout.

ONDA and WaterWatch offer the following comments on Application LL-1941.

1. The application requests the use of 0.167 cfs (nearly 108,000 gallons per day) for a period of five years from an aquifer that the Oregon Water Resources Department (OWRD) Groundwater Review determined is hydraulically connected to Hot Creek (also called Cherokee Creek), Payne Creek and McDermitt Creek. McDermitt Creek and its tributaries provide important habitat for the federally threatened Lahontan cutthroat trout and have been the focus of extensive restoration activities over the past few decades by state and federal agencies, local landowners and public lands users. This location is extremely important to conserving threatened Lahontan cutthroat trout as it is the only location capable of supporting a resilient and diverse population in the larger management unit that spans Nevada and Oregon. Restoration efforts are focused on establishing a metapopulation of the species in this system.

Data is lacking regarding the expected effects of LL-1941 on streamflows and stream temperature in these critically important streams. Extracting 108,000 gallons of water per day for five years is a significant amount of water in this arid region, where inputs of cold, clean groundwater are likely critical for supporting threatened Lahontan cutthroat trout and other native species. OWRD should not authorize any water use that potentially jeopardizes ongoing, multi-stakeholder restoration efforts in the hydraulically connected streams.

2. OWRD should deny this limited license application due to the lack of data regarding the groundwater resource and the streamflows in the hydraulically connected surface waters. Given the lack of data, OWRD cannot support a finding that water is available or that the public interest will not be impaired.

3. OWRD erred in failing to evaluate the effect on streamflows after five years of pumping (see. e.g., C.V. Theis, The Source of Water Derived From Wells). The Groundwater Review for Application LL-1941 appears to have applied only a 30-day test, which is not supported by available evidence as the effects of pumping would continue to increase over the life of any permit. To ensure consistency with Oregon's Groundwater Act, OWRD should revise its Groundwater Review to consider the full impacts that the proposed pumping would have on nearby streams. Fully considering the impacts from the proposed pumping is especially important given the importance of the surface waters for threatened Lahontan cutthroat trout, as well as the Oregon Department of Environmental Quality's concerns related to water quality issues.

4. In reviewing Application LL-1941, OWRD must ensure that no domestic wells, including in Nevada, will be adversely impacted. OWRD's over-issuance of groundwater permits in many parts of the state, particularly in areas where it lacked data regarding the groundwater resource as is the case here, has resulted in devastating impacts to domestic wells and the people who rely on those wells for drinking water. We urge OWRD to map all domestic wells that may be impacted if groundwater is pumped in this area and to ensure that none of these wells would be adversely impacted by any groundwater pumping.

5. The application does not describe any road construction activity related to the proposed well. It appears to be an application to use water for mineral exploration only. The Water Right Information System should be corrected to reflect this or Jindalee should provide details on how water would be used to support road construction activities.

In sum, this limited license application is in an arid landscape that is also extremely important to conservation of federally threatened Lahontan cutthroat trout. Streams that are hydraulically connected to the aquifer from which Jindalee proposes to pump are the focus of decades-long, multi-stakeholder restoration efforts. ONDA and WaterWatch request that the application be denied. If OWRD moves forward with the application, the review must fully consider any impacts that pumping under the limited license would have on streamflows over the full permit period. Thank you for considering these comments. Sincerely, Anne White Wildlands Coordinator Oregon Natural Desert Association 50 SW Bond Street, Suite 4 Bend, Oregon 97702 541.330.2638 x310 anne@onda.org Lisa A. Brown Staff Attorney WaterWatch of Oregon 213 SW Ash Street., Suite 208 Portland, Oregon 97202 503.295.4039 x102 lisa@waterwach.org

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Lisa Brown (copied from electronically submitted comments online)

Thank you for the opportunity to comment on application LL-1941. WaterWatch joins the comments that the Oregon Natural Desert Association has submitted to WRIS, which have also been submitted separately by letter due to formatting issues and word limits in WRIS. Thank you for considering our comments.

Siskiyou Rising Tide (copied from electronically submitted comments online)

July 10, 2023 Public Comment: Application LL-1941 Siskiyou Rising Tide, based in rural Southern Oregon, is dedicated to promoting community- based solutions to the climate crisis and taking direct action to

confront the root causes of climate change. We are writing asking you to oppose the limited license permit application (LL-1941) applied for by Hitech Minerals, Inc for the proposed Jindalee lithium mine because the applicant will impair and be detrimental to the public interest. - The State of Oregon has very little data on groundwater and streamflow in the McDermitt Creek basin and should not be allowing HiTech to pump water from the aquifer, which the state has determined is connected to streamflows. - McDermitt Creek and its tributaries provide important habitat for the federally threatened Lahontan cutthroat trout. For decades, state and federal agencies, local landowners and public lands users have undertaken restoration efforts to establish a metapopulation of the species in this system, which is the only location capable of supporting a resilient and diverse population in the larger management unit that spans Nevada and Oregon. In many streams, inputs of cold, clean groundwater are critical to maintaining the streamflows and cool water needed by these fish. Oregon should not authorize groundwater pumping when it lacks adequate data to understand the impacts on Lahontan cutthroat trout habitat. - Oregon is in the midst of a decades-long drought, with southeastern Oregon being particularly affected. In six of the last ten years, Oregon's Governor has declared a drought emergency in Malheur County, underscoring the severity of water shortages in the region. The Oregon Climate Change Research Institute's Sixth Oregon Climate Assessment found that droughts will become more frequent, widespread, and severe across the state, especially in Southern Oregon. Under current emissions trends, seasonal droughts are projected to last 11 to 33 percent longer and be at least 40 percent more severe by the end of the century. (https://energyinfo.oregon.gov/blog/2023/1/11/occris-sixth-climate-assessment-outlines-climate-change-effects-on-oregon) - Without adequate data, it is impossible to determine whether or not HiTech's proposed well, even temporary pumping for five years, would have no detrimental or adverse impacts to water availability or quality available in the McDermitt Creek Basin. - HiTech's application for a temporary well is just the first of what are anticipated to be many other requests to follow for both temporary wells and huge diversions to support mining operations in the region. I am concerned about the potential impacts of well development and groundwater extraction on the environment, economy and the future of my community (including people who rely on domestic wells for drinking water and household use). While the world works to transition off fossil fuels, we must not allow communities, the environment, and Oregon's limited water resources to be sacrificed for so-called "green" technologies. A 2023 report from Climate + Community Project finds that "the United States can achieve zero emissions transportation while limiting the amount of lithium mining necessary by reducing the car dependence of the transportation system, decreasing the size of electric vehicle batteries, and maximizing lithium recycling. Reordering the US transportation system through policy and spending shifts to prioritize public and active transit while reducing car dependency can also ensure transit equity, protect ecosystems, respect Indigenous rights, and meet the demands of global justice." (https://www.climateandcommunity.org/more-mobility-less-mining) Oregon must invest in these community solutions rather than allowing permits for the Jindalee lithium mine which would undoubtedly impair Oregon's water resources and be detrimental to the public interest. Thank you for the consideration of our request to deny HiTech Mineral's limited use permit application. Siskiyou Rising Tide sorisingtide@gmail.com

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CJ Callao - People of Red Mountain (copied from electronically submitted comments online)

I am writing these concerns in regard to HiTech Minerals applying for a limited water license in the McDermitt Caldera. This permit would have a five-year duration and authorize the company to pump up to 75 gallons per minute, or 41,250 gallons per day to support additional exploratory drilling and road maintenance. There is inadequate data to determine whether or not HiTech's proposed well would have no detrimental or adverse impacts to water availability or quality available in the McDermitt Creek basin. This basin is already battling with over allocated water for area and the quality of water in

the actual town of McDermitt is still suffering from the aftermaths of the abandoned Cordero Mercury Mine. The town of McDermitt has high levels of arsenic. At times the levels are so high, the water is unsafe to drink for all. For over two consecutive years, drinking water had to be delivered from 75 miles away to each home in McDermitt due to the high levels of arsenic. Today, the drinking water in the town of McDermitt is still struggling. Humboldt County had to raise the levels of arsenic allowed for the public water for the town to pass safe drinking water guidelines. There are still guidelines in place for elders and children NOT to drink the tap water in the town of McDermitt, but it is ok for the rest of us. Does this mean my life is less important than elders and children because I fall in a category that can handle high levels of arsenic? Is there data to prove it is ok for me to drink high levels of arsenic? Due to this inadequate data for the water permits, please do not pass these permits. This town cannot handle the impacts of water availability and another impact to the quality of the water.

Ka'ila Farrell-Smith (Klamath Modoc) (comments submitted by email after public notice closed, and are available at: ..\Received after Comment Period Closed\Public Comment on LL-1941.msg

My name is Ka'ila Farrell-Smith, I'm an enrolled member of the Klamath Tribes of Oregon, I reside in Chiloquin, Oregon. I am a professional artist and environmental activist. My father, the late Alfred Leo Smith (1919-2014), plaintiff in the 1994 Amendment to the Native American Freedom of Religion act, is a survivor of Chemawa Indian Boarding School and the Stewart Indian Boarding school, circa mid 1930's. I traveled as a child to Ft McDermitt to participate in Native American ceremonies with my family. I am deeply concerned about the drastic environmental and cultural impacts of the Jindalee's (a foreign Australian corporation) proposed lithium mine at Ft. McDermitt Tribal reservation on the Oregon and Nevada border. Proper, respectful, and thorough consultation will need to be conducted with the Indigenous Tribes and Sovereign Nations whose sacred ancestral lands this lithium deposit resides within, to get true consent. This is required by the United Nations Declaration on Rights of Indigenous Peoples (UNDRIP).
Regarding this five-year permit for limited water license requested by Jindalee's subsidiary HiTech Minerals, the Oregon Water Resources Department (OWRD) should deny this request due to lack of data on groundwater and streamflow in the McDermitt Creek basin. OWRD should not allow HiTech to pump water from the aquifer, which the state has determined is connected to streamflows.
McDermitt Creek and its tributaries provide important habitat for the federally threatened Lahontan cutthroat trout. For decades, state and federal agencies, local landowners and public lands users have undertaken restoration efforts to establish a metapopulation of the species in this system, which is the only location capable of supporting a resilient and diverse population in the larger management unit that spans Nevada and Oregon. In many streams, inputs of cold, clean groundwater are critical to maintaining the streamflows and cool water needed by these fish. Oregon should not authorize groundwater pumping when it lacks adequate data to understand the impacts on Lahontan cutthroat trout habitat.
Oregon is in the midst of a decades-long drought, with southeastern Oregon being particularly affected. In six of the last ten years, Oregon's Governor has declared a drought emergency in Malheur County, underscoring the severity of water shortages in the region.
Without adequate data, it is impossible to determine whether or not HiTech's proposed well, even temporary pumping for five years, would have no detrimental or adverse impacts to water availability or quality available in the McDermitt Creek basin.
HiTech's application for a temporary well is just the first of what are anticipated to be many other requests to follow for both temporary wells and huge diversions to support mining operations in the region. I am concerned about the potential impacts of well development and

groundwater extraction on the environment, economy and the future of my community (including people who rely on domestic wells for drinking water and household use).
According to a petition brought by Fort McDermitt tribal members to the tribal council, tribal members have sacred connections with the area known as PeeheeMu'huh (Thacker Pass). Just south of the McDermitt lithium deposit on the Oregon side is another lithium mine proposed by a foreign Canadian corporation Lithium Americas. Both of these sites (Disaster Peak and Thacker Pass) are sacred to the Northern Paiute, Bannock, and Western Shoshone tribal peoples and are historic cultural sites of their ancestors escaping a massacre by the US government in the 1860's. The petition states the mine will destroy sacred burial grounds; will eliminate traditional ceremonial and spiritual medicine including toza; will destroy ceremonial roots, berries, and plants; and will disturb 12 golden eagle nests, deer, rabbits, sage grouse, Lahontan cutthroat, and essential ceremony old growth sage brush that tribal members need for survival.
Sincerely, Ka'ila Farrell-Smith (Klamath Modoc)
MFA, Hallie Ford Fellow 2021, Fields Artist Fellow 2019-2020 www.kailafarrellsmith.co

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Max Wilbert (comments submitted by email after public notice closed, and are available at: ..\Received after Comment Period Closed\HiTech Minerals Water application comment.msg

I'd like to submit a comment on HiTech Minerals application for water rights related to test drilling and exploratory activities in the McDermitt Creek basin in southeastern Oregon.
This region is one of the most important sage grouse and Lahontan cutthroat trout habitats left. The aquifer in this region is almost certain to be directly connected to McDermitt Creek. It's also a culturally important site to regional tribes. Authorizing additional water extraction here would mean the destruction of additional habitat and disturbance of wildlife.
I urge you to halt this project and deny this water rights application.
Please add me to your notification list for any further developments related to the HiTech Minerals exploration or lithium mine projects in Oregon.
Sincerely,Max Wilbert

STATE OF OREGON

WATER RESOURCES DEPARTMENT

RECEIPT # 139140

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIVED FROM: McGinley & Associates Inc.

BY: _____

APPLICATION	L-1941
PERMIT	
TRANSFER	

CASH: ☐ CHECK:# ☒ 31003 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D $280.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	$
_____	OTHER: (IDENTIFY) _____	$

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

MISCELLANEOUS 4/6111

0407	COPY & TAPE FEES	$
0410	RESEARCH FEES	$
0408	MISC REVENUE: (IDENTIFY) _____	$
TC162	DEPOSIT LIAB. (IDENTIFY) _____	$
0240	EXTENSION OF TIME	$

WATER RIGHTS:

		EXAM FEE		RECORD FEE
0201	SURFACE WATER	$	0202	$
0203	GROUND WATER	$	0204	$
0205	TRANSFER	$		

WELL CONSTRUCTION

		EXAM FEE		LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	$	0219	$
	LANDOWNER'S PERMIT		0220	$
0224	OTHER (IDENTIFY) Limited License			$280.00

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	$	CARD#	
0210	MONITORING WELLS	$	CARD#	

_____ OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY

		LIC NUMBER	
0233	POWER LICENSE FEE (FW/WRD)		$
0231	HYDRO LICENSE FEE (FW/WRD)		$
_____	HYDRO APPLICATION		$

_____ TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ $

RECEIPT: 139140 DATED: 9-16-2022 BY: _____

Distribution – White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal

McGINLEY & ASSOCIATES, INC. Reno, Nevada 89511

37003

OREGON WATER RESOURCES DEPT

9/13/2022

LIMITED LICENSE PERMIT FEE

280.00

RECEIVED

SEP 16 2022

OWRD

1000.00 HERITAGE B PERMIT FEE - LIMITED LICENSE

280.00

Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

September 22, 2022

HiTech Minerals, Inc.
Attn: Brett Marsh
241 Ridge St.
Ste. 240
Reno, NV. 89501

Reference: LL-1941

The Oregon Water Resources Department has received your limited license application for the following use:

Received:	September 16, 2022
Amount:	0.167 CFS
Source:	A Well (proposed)
Proposed Use:	Road Construction or Maintenance & Mineral Exploration Drilling Water Supply

Enclosed is a copy of receipt #139140 in the amount of $280.00.

As required by OAR 690-340-0030, a description of this application will be included in the Department's weekly public notice for 14 days. A public comment period will begin at that time. Any substantial public interest issues raised during the comment period must be addressed before the application is processed further.

The proposed use may affect the habitat of sensitive, threatened or endangered fish species. This determination is based upon information provided by an interagency review team that will review your application to determine whether there will be a loss of essential habitat for listed fish species. The interagency review team will attempt to condition the proposed use, if necessary. If the proposed use cannot be conditioned, the team may recommend denial of the application unless it concludes that the proposed use would not harm the species. This interagency review does not apply to limited license applications that are less than 120 days in duration or issued in conjunction with an enforcement order.

Please be aware that if your proposed source is from groundwater, additional technical reviews will be conducted by the Department. These reviews may delay issuance of a final order by approximately six months to a year.

For applications to use surface water, the Department typically issues a final order within 1-2 months of receiving the application depending on public interest considerations and workload.

If you need further assistance, please contact Mary Bjork in the Water Rights Section at 503-979-9895 or mary.f.bjork@water.oregon.gov.

Enclosure
cc: File
Watermaster #9
Eastern Region, ODFW
Owyhee River Basin, DEQ

McGinley & Associates
A Universal Engineering Sciences Company

Reno Office
5410 Longley Lane
Reno, Nevada 89511
775.829.2245

Las Vegas Office
1915 N. Green Valley Pkwy.
Suite 200
Henderson, Nevada 89074
702.260.4961

www.mcgin.com

September 12, 2022

RECEIVED
SEP 16 2022
OWRD

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271

ATT: **Ms. Mary Bjork**

RE: **APPLICATION FOR LIMITED WATER USE LICENSE, HITECH MINERALS, MALHEUR COUNTY, OREGON**

Dear Ms. Bjork:

McGinley & Associates, Inc. (McGinley), on behalf of HiTech Minerals, Inc. (HiTech), is pleased to submit this application for a Limited Water Use License to the Oregon Water Resources Department (OWRD). Included herein please find the following application materials:

- $280 application fee for one point of diversion (Check #37003);
- Application for Limited Water Use License;
- Project description;
- Water availability statement;
- Site map;
- Well schematic; and,
- Bureau of Land Management (BLM) authorization of well installation activities.

McGinley trusts this application meets the requirements of the OWRD at this time. Should you have any questions or comments regarding this application, please feel free to contact the undersigned at your earliest convenience.

Respectfully submitted,
McGinley & Associates, Inc.

Justin Fike, P.G.
Project Manager/Hydrogeologist

LL-1941

RECEIVED
SEP 16 2022
OWRD

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1271
(503) 986-0900
www.wrd.state.or.us

Application for Limited Water Use License

License No.: LL-1941

Applicant Information

NAME HiTech Minerals, Inc., Att: Brett Marsh				PHONE (HM)
PHONE (WK)	CELL 623-570-3359			FAX
ADDRESS 241 Ridge St., Suite 240				
CITY Reno	STATE NV	ZIP 89501	E-MAIL * brett@jindalee.net	

See address change email 4-19-2023
WRIS updated

Agent Information

NAME Justin Fike			PHONE 775-829-2245	FAX
ADDRESS 5410 Longley Lane				CELL
CITY Reno	STATE NV	ZIP 89511	E-MAIL * jfike@mcgin.com	

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

1. **SOURCE(S) OF WATER:** Groundwater a tributary of N/A
2. **AMOUNT OF WATER** to be diverted;
   Maximum and instantaneous rate (cubic feet or gallons per minute): 75 gpm (up to 41,250 gpd)
   Total volume (gallons or acre-feet): 34.69 afa. If water is to be used from more than one source, give the quantity from each:
3. **INTENDED USE(S) OF WATER:** (check all that apply)
   - ☒ Road construction or maintenance (dust abatement at drilling pads/access roads)
   - ☐ General construction
   - ☐ Forestland and rangeland management; or
   - ☒ Other: Mineral exploration drilling water supply
4. **DESCRIPTION OF PROPOSED PROJECT:** Include a description of the place of use as shown on the accompanying site map, the method of water diversion, the type of equipment to be used (including pump horsepower, if applicable), length and dimensions of supply ditches and pipelines:
   Please see Attachment A and Figures 1 and 2.
5. **PROJECT SCHEDULE:** (List day, month, and year)
   Date water use will begin: November 1, 2022
   Date water use will be completed: October 31, 2027
   Months of the year water would be diverted and used: March through November
   If for other than irrigation from stored water, how and where will water be discharged after use:
   N/A

Brett Marsh
Applicant Signature

Brett Marsh, V.P. Exploration & Dev.
Print Name *and title if applicable*

August 24, 2022
Date

PLEASE READ CAREFULLY

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

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

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

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

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

Mapping Requirements (OAR 690-340-0030):

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

a. A site map of reproducible quality, drawn to a standard, even scale of not less than 2 inches = 1 mile, showing:

i. The locations of all proposed points of diversion referenced by coordinates or by bearing and distance to the nearest established or projected public land survey corner;

ii. The general course of the source for the proposed use, if applicable;

iii. Other topographical features such as roads, streams, railroads, etc., which may be helpful in locating the diversion points in the field.

REMARKS:

For WRD Use Only

LL-1941

ATTACHMENT A

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

Project Summary

HiTech Minerals, Inc. is conducting mineral exploration within the proposed place of use (POU) identified on Figure 1. The proposed POU is located on federal lands administered by the Bureau of Land Management (BLM), Vale Office. The requested water use is for exploration drilling water supply and dust suppression on/near the drill pads. The water supply will be needed for up to five years. The maximum anticipated water use based on estimated worst case scenario drilling conditions is 41,250 gallons/day (gpd) while drilling, up to an estimated 34.7 acre-feet annually (afa).

Proposed Well and Equipment

The proposed well (point of diversion) location is indicated on Figure 1. A well schematic showing the anticipated well construction is provided in Figure 2. The well annulus would be sealed through the upper alluvium such that the perforated well screen is accessing water located in the deeper volcanic rock. An approximate 7.5 HP submersible pump will be installed in the well to facilitate rapid filling of water storage tanks. Water will be conveyed from the well through temporary above ground pipes to temporary above ground water storage tanks located proximal to the well. The water tanks will be equipped with a water level float system to control the well pump and prevent overflow of the tanks. Water would be periodically transferred by pump from the storage tanks to a water truck which would transport the water to respective exploration drilling locations located within the POU.

LL-1941

RECEIVED
SEP 16 2022
OWRD

This page to be completed by the local Watermaster.

WATER AVAILABILITY STATEMENT

Name of Applicant: HiTech Minerals, LLC Limited License Number: LL-1941

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

☐ Yes ☒ No

If yes, please explain:

Stream/basin is unajudicated.

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

☒ Yes ☐ No

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

☐ Yes ☒ No

If yes, what are your observations for the stream?

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

☐ Yes ☐ No ☐ N/A UNKNOWN

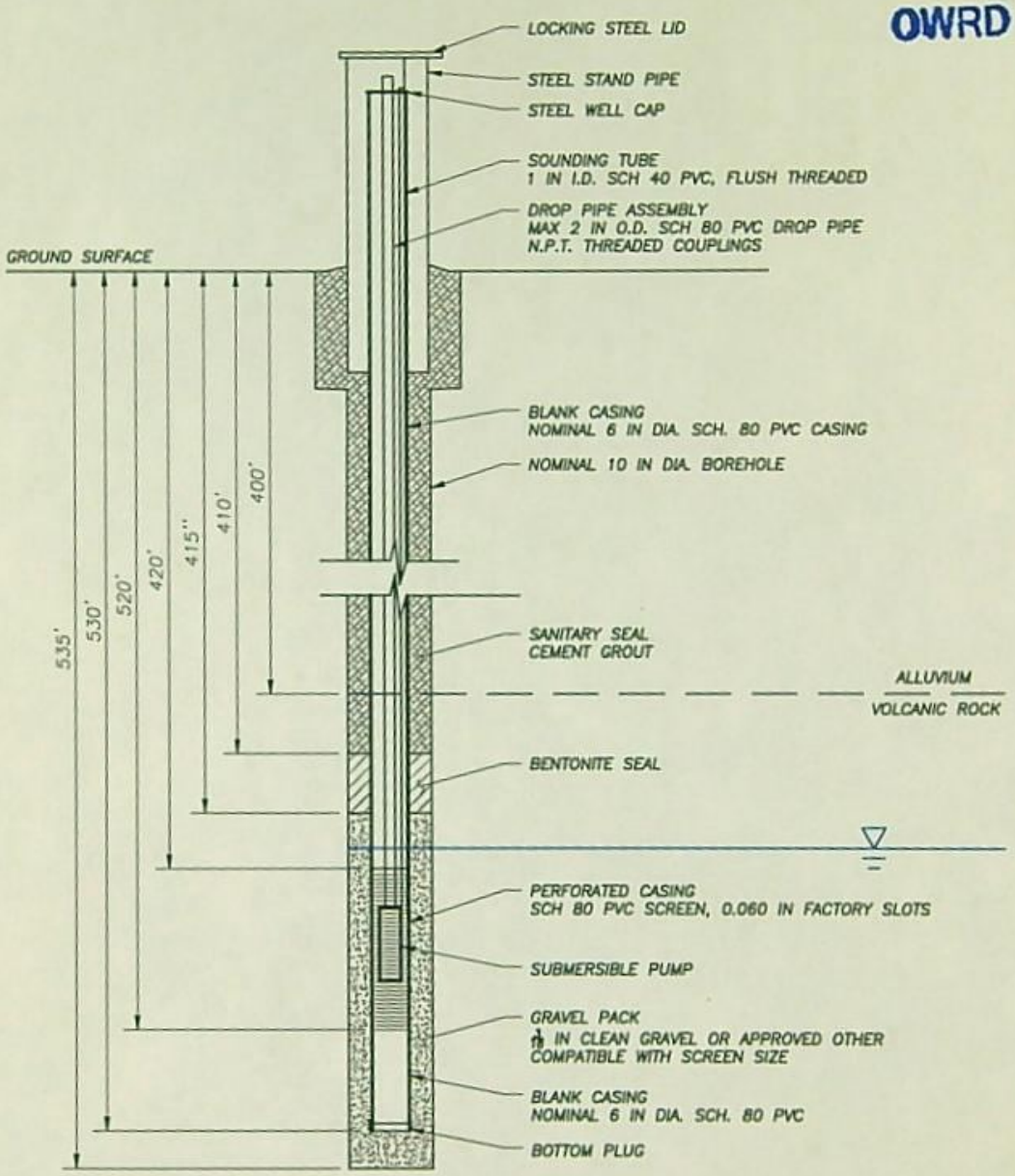
What would you recommend for conditions on a limited license that may be issued approving this application?

Installation of an in-line totalizing flow meter.

5. Any other recommendations you would like to make?

Defer to groundwater section to determine if proposed well/use will impact nearby stream flows/downstream SW Claims.

Signature [signature] WM District #: 9 Date: 7/1/2022



REFERENCE	DESIGNED	JF	
	DRAWN	TAD	
	CHECKED		
	APPROVED		
REVISIONS	No. DESCRIPTION BY DATE		

FIGURE 2

WELL SCHEMATIC
DRILLING WATER SUPPLY WELL
McDERMITT EXPLORATION PROJECT
McDERMITT, OREGON

McGinley & Associates

SCALE: NOT TO SCALE	REVISION
JOB NO. JIN001.006	A

LL-1941

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vale District Office
100 Oregon Street
Vale, Oregon 97918
http://www.blm.gov/or/districts/vale

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3809 LLORV04000
OR-69462

AUG 23 2022

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HiTech Minerals Inc.
Attn: Brett Marsh
241 Ridge St, Suite 210
Reno, NV 89501

Surface Management

NOTICE MODIFICATION COMPLETE AND DETERMINATION OF FINANCIAL GUARANTEE AMOUNT

On August 9, 2022, BLM received a modification (MD-4) for the HiTech Minerals notice (ORORV-69462) to drill a water well and brush-hog sage brush in support of exploration activities. The BLM has reviewed the Notice Modification and determined it is complete (Enclosure 1), containing all the information required by the surface management regulations outlined in 43 CFR 3809.301, and is adequate to prevent unnecessary or undue degradation (UUD) as defined by 43 CFR 3809.5.

Based on review of data currently available, the proposed operation presents a low risk of impacting historic properties if the operator drives on designated routes and conducts exploration on the identified drilling pads. There are threatened and endangered species in Mcdermitt Creek, downstream from exploration activity; however, sediment controls outlined in the Notice are sufficient to prevent UUD. Regulations outlined in 43 CFR 3809.420 (Enclosure 2) provide further details on performance standards that apply to your Notice operation, which include those related to cultural resources and threatened or endangered species.

Amount of Financial Guarantee – This office has reviewed HiTech Minerals' reclamation cost estimate for the proposed modification and determined that the amount of $56,772 is sufficient to meet all anticipated reclamation requirements. The amount of the reclamation cost estimate is based on the operator complying with all applicable operating and reclamation requirements as outlined in the Notice and the regulations outlined in 43 CFR 3809.420.

The additional financial guarantee in the amount of $40,721 must be submitted to and accepted by the BLM Oregon/Washington State Office at 1220 SW 3rd Avenue, Portland, OR 97204. You must receive written notification from that office accepting and obligating the additional financial guarantee before you continue any surface-disturbing operations. Please contact Lisa Stone, land law examiner at lstone@blm.gov or (503) 808-6155 to post the additional bond amount.

BLM's review of your proposed operations, determination that your Notice Modification is complete, finding that the activity will not cause unnecessary or undue degradation, and decision concerning the amount of the required financial guarantee does not relieve you, the operator, of the responsibility to comply with all applicable Federal, state, and local laws, regulations, and permit requirements.

LL-1941

You are responsible for preventing any unnecessary or undue degradation and for reclaiming all lands disturbed by your operations.

This review and determination do not constitute certification of ownership to any entity named in the Notice, recognition of the validity of any associated mining claims, or recognition of the economic feasibility of the proposed operations.

Term of Notice - Your Notice will remain in effect for 2 years from the date of this letter. If you wish to conduct operations for another 2 years after the expiration date of your Notice, you must notify this office in writing on or before the expiration date as required by 43 CFR 3809.333. You will also have to submit an updated reclamation cost estimate at that time.

Appeal of the Decision Determining the Required Financial Guarantee Amount – Appeal of this Decision Determining the Required Financial Guarantee Amount can be pursued utilizing Form 1842-1 (Enclosure 3).

If you have any questions, please contact Daniel Pike at 541-473-6369.

Sincerely,

Thomas Patrick "Pat" Ryan
Field Manager
Malheur Field Office

3 Enclosures
1- Complete HiTech Notice Modification (Modification #4)
2- 43 CFR 3809.420, performance standards
3 - Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals

cc: Luke Poff- BLM-OSO
Lisa Stone – BLM OSO, bond adjudication
John Young- McGinley and Associates, via electronic mail: jyoung@mcgin.com

LL-1941

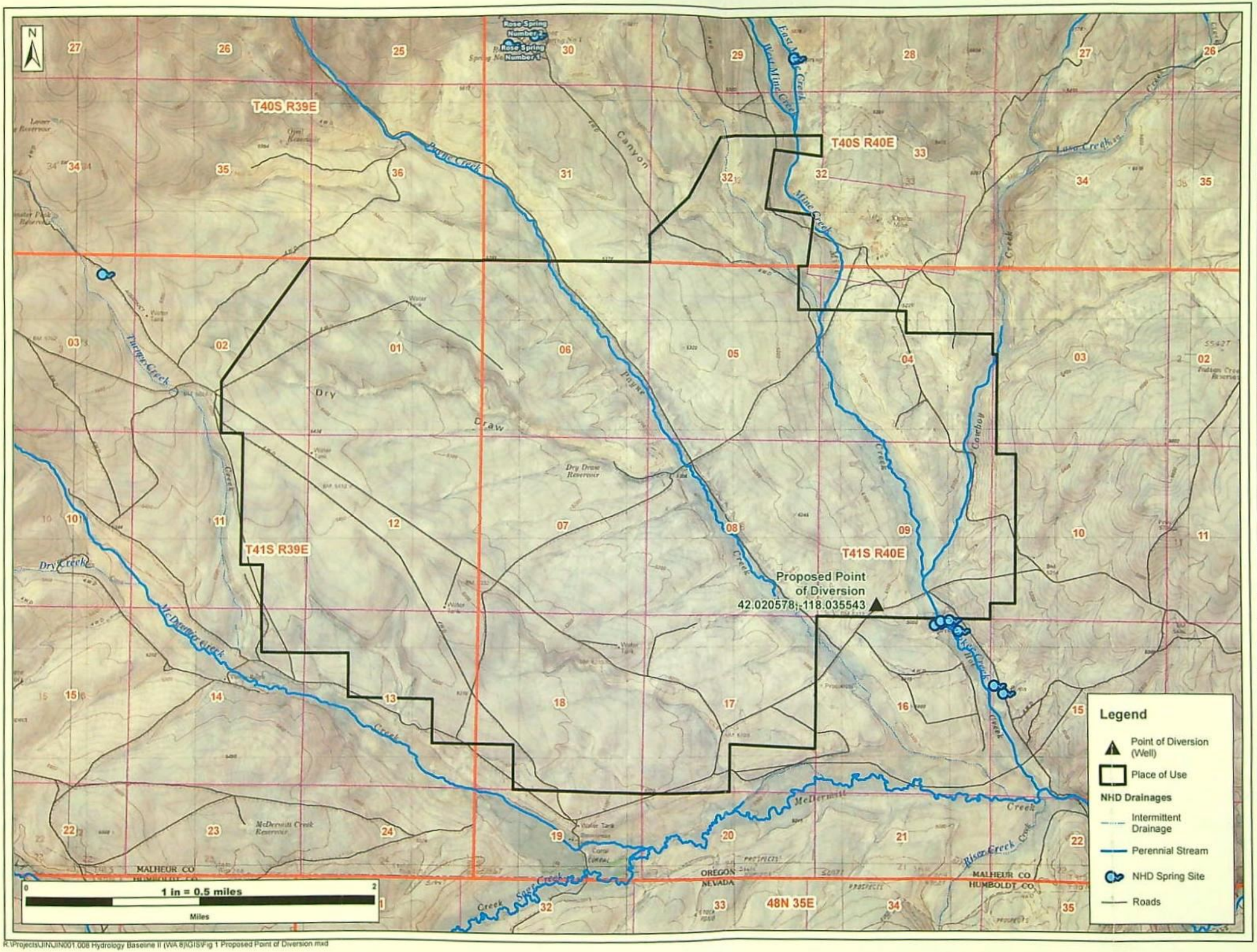


FIGURE 1

TITLE:

SITE MAP
-showing-
POINT OF DIVERSION
PLACE OF USE
MCDERMITT, NV & OR

JOB NO.:

JIN001.008

DATE:

6/29/2022

FILE:

Fig 1 Proposed Point of Diversion

COORDINATE SYSTEM:

NAD 1983 UTM Zone 11N

REF.	
DESIGNED	AT
DRAWN	AT
CHECKED	DS
APPROVED	DS

REVISION:

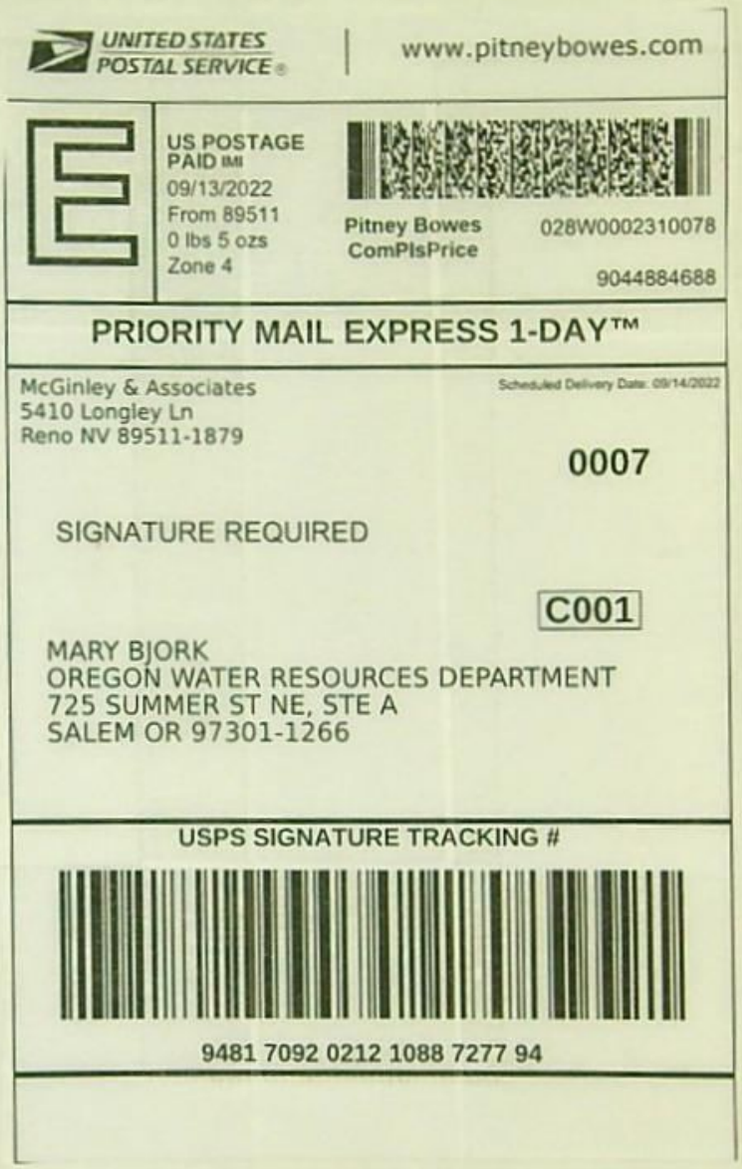
--

RECEIVED
SEP 16 2022
OWRD

McGinley & Associates
A Universal Engineering Sciences Company

R:\Projects\JIN\JIN001.008 Hydrology Baseline II (WA 8)\GIS\Fig 1 Proposed Point of Diversion.mxd

LL-1941



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OREGON WATER RESOURCES DEPARTMENT
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