

Oregon Department of Fish and Wildlife Water Right and Diversion Transfer Comment Form

Reference Transfer #: 9475

A. Please check box if you believe there is a potential for injury to an instream water right.

The Oregon Department of Fish and Wildlife (ODFW) believes this proposed transfer may injure an instream water right(s) on _____, tributary to _____. Because, _____
(Stream)

(Please attach any available supporting information.)

Note: This will prompt WRD to further evaluate and make a determination whether the transfer will injure an instream water right. (WRD is the agency that makes the determination of injury to a water right, while ODFW's role is to raise concerns and to evaluate proposed mitigation and net benefit to the resource if WRD requests concurrence with injury to an instream water right.)

B. Please check one of the following five boxes related to requiring a fish screen and/or by-pass device pursuant to ORS 540.525 or 540.532:

The new Point of Diversion (POD) requires a fish screening and/or by-pass device and is currently equipped with an appropriate fish screening and/or by-pass device.

Note: This option will yield the following:

Finding of Fact: *The Oregon Department of Fish and Wildlife has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.*

Condition: *The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.*

The new Point of Diversion (POD) requires a fish screening and/or by-pass device and would be eligible for cost share assistance under ODFW's cost share program. (If this box is selected, provide contact information on the "Fish Screening and Passage Information" sheet.)

Note: This option will yield the following:

Finding of Fact: *The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion is eligible for screening cost share funds. However, funds may not be currently available. ODFW has indicated a grace period is appropriate until such time as cost share funds become available to assist in the construction of a fish screening and/or by-pass device. If cost share funds do not become available, the water user must screen within the indicated time period regardless of cost share funding availability.*

Condition: *Within two years after the date of this order, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from*

*Please return both pages to: Transfers Section, Water Resources Department,
725 Summer St. NE, Suite A, Salem, OR 97301-1271*

ODFW that the required screen and/or by-pass device meets ODFW's criteria. The water user may withdraw water at the new point of diversion without screening or by-pass devices until two years after the date of this order. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

- The new Point of Diversion (POD) requires a fish screening and/or by-pass device prior to diverting water and is **NOT** eligible for cost share assistance under ODFW's cost share program. (If this box is selected, provide contact information on the "Fish Screening and Passage Information" sheet.)

Note: This option will yield the following:

Finding of Fact: *The Oregon Department of Fish and Wildlife has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device.*

Condition: *Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screen and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*

- The new Point of Diversion (POD) does not currently require a fish screen and/or by-pass device, however, the permittee may be required in the future to install, maintain, and operate fish screening and/or by-pass devices.

Note: This option will yield the following:

Finding of Fact: *The Oregon Department of Fish and Wildlife has determined that a fish screening and/or by-pass device may be required in the future at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device.*

Condition: *Within one year after receiving written notification from the Oregon Department of Fish and Wildlife (ODFW) that a fish screening and/or by-pass device is required, the water user shall install a screening and/or by-pass device, as appropriate, at the new point of diversion. The fish screening and/or by-pass device must meet ODFW's design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria. Once installed the water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*

- A fish screen and/or by-pass device should not be required as a condition of the transfer approval.

Note: This option will yield the following:

Finding of Fact: *The Oregon Department of Fish and Wildlife has determined that a fish screening and/or by-pass device is not necessary to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted.*

Condition: *None.*

Derek Wilson
Signature
Derek Wilson
Printed Name
Assistant District Fish Biologist
Title
(541) 867-4741
Phone