

ODFW PUBLIC INTEREST REVIEW SHEET

Application #: S 87395 Applicant's Name: City of Harrisburg

1) Will the proposed use occur in an area that may affect the habitat of fish or wildlife species?

☒ YES Species: Chinook salmon, steelhead, Pacific lamprey, cutthroat trout, other native fishes

Other: _____

Stage or value at risk (check all that apply): ☐ Spawning, ☐ Incubation ☒ Rearing ☒ Passage ☒ Habitat Value

2) Will the proposed use result in a loss of habitat? ☒ YES

3) Can conditions be applied to mitigate the impact to the loss of habitat? ☐ NO ☒ YES

Which conditions are recommended? (select from Menu of Conditions)_see attachment_____

4) If conditions cannot be identified to offset impacts to the habitat, would the proposed use harm the species? ☒ YES

If YES, please explain: Reduced flows could decrease available fish habitat; fish could be sucked into pump if no screen is in place;

5) If WRD determines that it is in the public's interest to approve a permit even if the impact cannot be mitigated what conditions do you recommend? (select from Menu of Conditions)

see attachment_____

6) Your recommendation: X Approval with conditions

ODFW Representative signature: Karen Hans Date: November 3, 2009

WRD Contact: Caseworker: Michelle McAleer, Water Rights Division, 503-986-0900 / Fax 503-986-0901

ODFW DIVISION 33 APPLICATION REVIEW SHEET

Recommendations for Water Right Applications that may affect the
Habitat of Sensitive, Threatened or Endangered Fish Species, OAR 690-33-310 through 340.

Application #: S 87395 Applicant's Name: City of Harrisburg

1) Will the proposed use occur in an area that may affect the essential habitat of sensitive, threatened, or endangered fish species?
[690-33-330(1)]

☒ YES Species: Chinook salmon, steelhead, Pacific lamprey Status: ☒ Sensitive ☒ Threatened ☐
Endangered

If YES, continue to question (2). If NO, you may comment by completing the public interest review sheet on the back of this page.

2) Stage or value at risk (check all that apply): ☐ Spawning, ☐ Incubation ☒ Rearing ☒ Passage ☒ Habitat Value

3) Will the proposed use result in a **LOSS** in the essential habitat of **THREATENED OR ENDANGERED SPECIES** or a **NET LOSS** in the essential habitat of a **SENSITIVE SPECIES**? ☒ YES

A) Standard of NET LOSS applies to sensitive species statewide. [690-33-330(2)(b)]

B) Standard of LOSS applies to T or E species outside the Columbia Basin. [690-33-330(2)(a)]

4) Can conditions be applied to mitigate the impact to the essential habitat of a S, T or E species?
☒ YES

Which conditions are recommended? (select from Menu of Conditions) see attachment.

5) If conditions cannot be identified to offset impacts to the essential habitat of S, T or E species, would the proposed use harm the species? ☒ YES [690-33-330(4)]

If YES, please explain: Reduced flows could decrease available fish habitat; fish could be sucked into pump if no screen is in place;

6) If WRD determines that it is in the public's interest to approve a permit even if the impact cannot be mitigated what conditions do you recommend? (select from Menu of Conditions)
see attachment _____

7) Your recommendation under OAR 690-033-0330 (2): ☒ Approval with conditions

ODFW Representative signature: Karen Hans Date: November 3, 2009

WRD Contact: **Caseworker:** Michelle McAleer, Water Rights Division, 503-986-0900 / Fax 503-986-0901

MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND AG

The following condition will be included in any permit issued unless ODFW explicitly requests that it be omitted:

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver or exemption through the Oregon Department of Fish and Wildlife. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator before beginning construction of any in-channel obstruction.

fishself The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional prior to diversion of any water. Permittee shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state's criteria or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.

fishapprove The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

fishdiv33 If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635-415-030 adopted November 13, 1991, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

fishmay Notwithstanding that ODFW has made a determination that fish screens and/or by-pass devices are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish screening and by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.

b52 Water may be diverted only when Department of Environmental Quality sediment standards are being met.

b5 The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.

b51a The period of use has been limited to _____ through _____.

b57 Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point.

b58 Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I. Additionally, before water use may begin under this permit, if the reservoir is located in channel then weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, a gated valve outlet must be installed. A written waiver may be obtained from the local Watermaster if in his judgment the installation of the weir(s) will provide no public benefit.

futile call The use of water allowed herein may be made only at times when waters from the (NAME OF SURFACE WATER) would not otherwise flow into a tributary of the _____ River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

riparian If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635-415-030 adopted November 13, 1991, shall be followed.

wq The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

fence The stream and its adjacent riparian area shall be fenced to exclude livestock.

blv Water must be diverted to a trough or tank through an enclosed water delivery system. The delivery system must be equipped with an automatic shutoff or limiting flow control mechanism or include a means for returning water to the stream source through an enclosed delivery system. The use of water shall not exceed 0.10 cubic feet per second per 1000 head of livestock.

Attachment to ODFW Division 33 Application Review Sheet

Application S-87395

Applicant: City of Harrisburg

The City of Harrisburg has applied for a water right to withdraw 2.61 cfs from 1 point of diversion at around T15S-R4W-S16 2330 ft south 1315 ft west on the Willamette River. The Willamette River is used by several state sensitive or federally Endangered Species Act (ESA) listed fish species:

Fall Chinook salmon – (Federal - Threatened, State Sensitive)

Spring Chinook salmon– (Federal - Threatened)

Coastal Cutthroat trout– (State Sensitive, below Willamette Falls)

Coho salmon– (Federal - Threatened, State – Endangered, exists downstream)

Pacific Lamprey – (State Sensitive, Federal – petitioned for listing)

Winter Steelhead – (Federal - Threatened, State Sensitive)

Oregon Chub – (Federal – Endangered, State Sensitive upstream, extinct in this area)

All these species use the Willamette River to either rear, migrate or spawn.

OAR 690-033-0220 directs the Department to evaluate water right applications as to whether a proposed use is detrimental to the protection or recovery of a threatened or endangered species. The Oregon Department of Fish and Wildlife has completed an analysis of the Willamette River under (ORS 537.230(2)(c)) and 537.630(2)(c)) to determine what flows are needed to maintain the persistence of fish species listed as sensitive, threatened or endangered under state or federal law. Additionally, a biological opinion has been developed for the "Willamette River Basin Flood Control Project" by NOAA Fisheries (2008) to address the recovery of Threatened Winter Steelhead and Spring Chinook. The Department's recommendations are based on the Willamette River analysis and the Willamette Basin Biological Opinion.

4) Conditions recommended:

4a) fishdiv33

4b) ODFW recommends that this water right be conditioned to allow diversion of water only when flows in the Willamette River are met or exceed ODFW's recommended minimum flows.
ODFW's recommended minimum flows are as follows:

Table 1 – Identified fish flow needed at Salem for listed fish species.

Month	ODFW Recommended Minimum Fish Flows (cfs)
Oct	5,630
Nov	6,000
Dec	6,000
Jan	6,000
Feb	6,000
Mar	6,000
Apr1-15	15,000 to 19,200

Apr16-30	17,000
May	15,000
Jun1-15	12,600
Jun16-30	8,500
Jul	5,630
Aug1-15	5,630
Aug16-31	5,630
Sep	5,630

Flows should be met at the Salem streamflow gage.

See "ODFW's Division 315 Revised Evaluation of Fish Persistence for Municipal Extension, City of Salem Application # S-55010 (March 9, 2009)" for justification of the Department's recommended minimum flows.