

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 #: S87538 Applicant's Name: Whitewater Ranch LLC & McKenzie River Ranch LLC

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)]

NO YES Species: spring Chinook, upper Willamette bull trout 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**? NO 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?
 NO; skip to question 6. YES

Which conditions are recommended? (select from Menu of Conditions) _fishdiv33_.

In addition, we request to maintain a minimum of 1000 cfs in the diverted reach of the McKenzie River in agreement with the Federal Energy Regulatory Commission (FERC) instream flow requirement for Eugene Water and Electric Board's Watterville and Leaburg Hydroelectric Project. This will require additional water to be released from upstream in the amount of the proposed withdrawal.

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? NO YES [690-33-330(4)]

If YES, please explain: This section of the McKenzie River provides habitat for bull trout and spring Chinook, which use this reach for rearing as well as for up and downstream migration. Incremental reductions of water available to provide critical habitat for these species will impact their potential population size. Because there is currently a 1000 cfs minimum stream flow required by FERC and the recommended instream flow for this section of the McKenzie is a minimum of 1400 cfs, the cumulative effect of additional water withdrawals would have further negative impacts on listed populations of fish.

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 #4.

7) Your recommendation under OAR 690-033-0330 (2): Approval with conditions
 Approval without conditions
 Denial

ODFW Representative signature:  Date: 3/16/10

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