

Superseded

Brent Crowe

ODFW ALTERNATE RESERVOIR APPLICATION REVIEW SHEET

Recommendations for Water Right Applications under the Alternate Reservoir review process (ORS 537.409) In lieu of the water right application process set forth in ORS 537.140 to 537.211, an owner of a reservoir may submit an alternate reservoir application for a reservoir that has a storage capacity less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height. ORS 537.409 describes the criteria used to evaluate alternate reservoir applications.

The review shall be limited to issues pertaining to: a) water availability, b) potential detrimental impact to existing fishery resources; and c) potential injury to existing water rights . (ORS 537.409 (6))

Within 60 days after the department provides public notice...any person may submit detailed, legally obtained information in writing, requesting the department to deny the application for a permit on the basis that the reservoir: (a) Would result in injury to an existing water right; or (b) Would pose a significant detrimental impact to existing fishery resources. (ORS 537.409 (5))

The review of alternate reservoirs is limited to these criteria only.

Date: September 8, 2012 Application #: R-87640
Please return to WRD before: Applicant: Tom and Vicki Van Saun
Water is available:

1) Would the proposed reservoir pose a significant detrimental impact to an existing fishery resource? NO / YES
Explain: (For example, list STE species or other existing fishery resources that would be negatively impacted.)
Summer steelhead and native trout use Slagle Creek. POD 1 is located on Slagle Creek but OWRD has not provided information on water availability in this stream. Diverting water out of Slagle Creek will detrimentally impact native fish if water is unavailable for storage. POD 2 is on the Applegate River and water will be delivered to the pond via an existing pipeline. OWRD has determined that water is available from Applegate Reservoir for storage April 1 through October 31. Diverting water only during this time period will minimize the impact on native salmonids and other species in the Applegate River. ODFW used OWRD's initial review of S-87641 to help in the review of this application.

Please check either of the boxes below if appropriate:

- Any diversion into storage during the period through poses a significant detrimental impact to existing fishery resources.
- This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area poses a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

2) Can conditions be applied to mitigate the detrimental impact to an existing fishery resource? NO / YES
If YES, which conditions are recommended: (select from the Menu of Conditions listed on back)
fishdiv33 for POD 2 (Applegate River). Water should be diverted only between April 1 and October 31 when OWRD has determined it is available from Applegate Reservoir (pending contract with BOR).
No diversion of water should be permitted from POD 1(Slagle Creek) unless OWRD verifies that water is available for storage from this stream. If OWRD determines that water is available, storage should be limited to the time period when water is available and fishdiv33 should apply. If water is not available in Slagle Creek, then only water piped from the Applegate should be used.

3) Did you meet with staff from another agency to discuss this application? NO / YES
Who: Agency: Date:
Who: Agency: Date:

ODFW Representative Signature: Brent Crowe, Assistant District Fish Biologist Date: September 8, 2010

WRD Contact: Caseworker: Kerry Kavanaugh, Water Rights Division
Fax: 503-986-0901

MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND AG

Revised November 2, 2000

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, Division 415, Section 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. The totalizing flow meter must be installed and maintained as identified in OAR 690-507-645.
- 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 judgement 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, Division 415, Section 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.
- b1v** 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.

Kerry Kavanagh

From: Brent Crowe [brent.d.crowe@state.or.us]
Sent: Wednesday, September 08, 2010 3:46 PM
To: kerry.l.kavanagh@state.or.us
Subject: R 87460
Attachments: R 87640 van saun.rtf

Kerry,

Attached is ODFW's review for alternate reservoir application R87640. I could not find any water availability information for Slagle Creek, which is the site for one POD. ODFW objects to the use of this POD unless OWRD can verify that water is available for storage. Storage of this water may negatively impact summer steelhead and resident trout in Slagle Creek.

The second POD is on the Applegate River and the water will be delivered via an existing pipeline. The OWRD review of S87641 states that water is available in storage from Applegate Reservoir pending a contract with BOR—this should not impact fish as long as the withdrawal period is limited to the time when water is available.

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