

# 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.**

Application #: R- 87201      Applicant's Name: Steve Conlee

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.)

On 10/05/2011 I visited the reservoir site, at Mr. Conlee's request, to more fully understand and evaluate the current available fish habitat and distribution. It was found that the current reservoir is located in Pine Creek channel high in the watershed just below where Giffin Canyon tributary enters Pine Creek as the map in the application indicates.

Griffin Canyon was not flowing water and Pine Creek above the reservoir had just a trickle of flowing water (3 gal/min.). The water quantity in Pine Creek above the reservoir was not sufficient to support juvenile salmonids and no spawning habitat was observed. Flow levels earlier in the year were likely much higher but would be short in duration. Mr. Conlee's description of Pine Creeks flow above the reservoir, is moderate flow early season April through May then it either dries up or is a trickle the remainder of the year. The reservoir outlet is a screened 12" culvert with a 4 foot drop on the lower end back to the stream channel. The current culvert and channel orientation is a barrier to fish passage of all life stages. Two other culverts were observed below the reservoir in Pine Creek. The culverts are located approximately 100 m and 400 m downstream from the reservoir and both culverts are partial fish passage barrier with drops of 2 to 3 feet.

Summer Steelhead distribution for Pine Creek from the StreamNet GIS Data Metadata for Pacific Northwest fish spatial data indicates steelhead distribution is approximately 0.4 miles above the current reservoir. My investigation shows the reservoir is the upper distribution of native fish species in Pine Creek. The reservoir contains trout that were initially stocked in 1994-95 according to Mr. Conlee. They are naturally reproducing and spawning in the upper end of the reservoir.

Due to the low quality and limited amount of fish habitat in the Pine Creek channel above Mr. Conlee's reservoir it is our recommendation to leave the reservoir in place and modify the upper summer steelhead distribution of StreamNet to the base of the dam where it has been for last 59 years.

Please check either of the boxes below if appropriate:

☐ Any diversion or appropriation of water for storage during the period      through      poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.)

☐ 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 significant detrimental impact to an existing fishery resource? ☒ NO ☐ YES

If YES, which conditions are recommended: (select from the Menu of Conditions listed on back)

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 Smith Date: 10/06/11

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

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## 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 635-415, 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 and 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 635-415, 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.

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## Kerry Kavanagh

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**From:** Brentton Smith [brentton.a.smith@state.or.us]  
**Sent:** Thursday, October 06, 2011 2:03 PM  
**To:** Kerry Kavanagh  
**Cc:** NEAL Jeff  
**Subject:** Alt Res Review 87201  
**Attachments:** R87201 v 2.doc

Hi Kerry,

It has been a long time coming but finally got together with Steve Conlee for a site visit and finished up his review.

Let me know if you have questions.

Brent Smith  
Assistant District Fish Biologist  
John Day Fish District  
Oregon Department of Fish and Wildlife  
P.O. Box 9, John Day, OR 97845  
541-575-1167

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