

# DEQ 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 #: R 87763 Applicant's Name: Irl Davis

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1) Is there a connection to a 303(d) listed water quality limited water body?  NO  YES

Explain: The connection appears to be very limited. The White River is 303(d) listed for temperature. It looks like ultimately the springs (and Butler Canyon) eventually would contribute to the White River but it does not appear to be a very direct connection. It also appears that the flows from Springs 2 and 3 are intercepted by a canal and do not make it to the White River anyways.

2) What is the potential for this use to impact a water quality limited water body:  HIGH  MEDIUM  LOW

Explain: Given the limited connection of these springs to the White River, we think the potential is very low for the proposed use to impact a water quality limited water body.

3) If the answer to question (2) is HIGH or MEDIUM, will the proposed use still result in diminution of water quality for the habitat of sensitive, threatened, or endangered fish species?  NO  YES

If YES, how?

4) Can conditions be applied to mitigate the impact of the use?  NO  YES

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

5) If conditions cannot be identified to offset impacts, would the proposed use affect the Habitat of Sensitive, Threatened, or Endangered Fish Species?  NO  YES

If YES, please explain:

6) If a permit is issued, are there any conditions you would like to see included in the permit?

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

DEQ Representative signature: Bonnie Lamb Date: 02-03-12

WRD Contact: Caseworker: Kerry Kavanaugh 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.
- bly** 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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WATER RESOURCES DEPT  
SALEM, OREGON

## Kerry Kavanagh

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**From:** LAMB Bonnie <LAMB.Bonnie@deq.state.or.us>  
**Sent:** Friday, February 03, 2012 4:18 PM  
**To:** KAVANAGH Kerry L  
**Cc:** FRENCH Rod A  
**Subject:** RE: OWRD: WR Application R 87763 (Storage) has been submitted for your District or Region. [DEQ]  
**Attachments:** DEQ\_R87763\_White River.docx

Hi Kerry - DEQ's review is attached. Let me know if you have any questions.  
Bonnie

-----Original Message-----

**From:** Kerry Kavanagh [<mailto:kerry.l.kavanagh@state.or.us>]  
**Sent:** Wednesday, January 25, 2012 12:33 PM  
**To:** LAMB Bonnie  
**Cc:** KAVANAGH Kerry L; FRENCH Rod A  
**Subject:** RE: OWRD: WR Application R 87763 (Storage) has been submitted for your District or Region. [DEQ]

Hi Bonnie,

Yes, we do need your reviews even if we propose to deny the application at the initial review stage. There is always the possibility that the applicant could modify the application or overcome the negative aspects that we identify at the IR. Also, even if we issue a PFO to deny, the applicant can protest the Department's recommendation, so OWRD would need to know DEQ and ODFW's evaluations of the proposed water use.

Hope this explanation helps.

Thanks for your help!

Kerry

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SALEM, OREGON

-----Original Message-----

**From:** LAMB Bonnie [<mailto:LAMB.Bonnie@deq.state.or.us>]  
**Sent:** Tuesday, January 24, 2012 2:09 PM  
**To:** Kerry Kavanagh  
**Cc:** FRENCH Rod A  
**Subject:** RE: OWRD: WR Application R 87763 (Storage) has been submitted for your District or Region. [DEQ]

Hi Kerry - Eric just forwarded me another request from OWRD to review this application. I never heard back from you on this earlier email that I sent to you (and Rod) on January 3rd. Can you answer my questions about if and why you still want us to provide reviews if you are requesting additional information from the applicant and are proposing to deny?

Thanks.

Bonnie

-----Original Message-----

**From:** LAMB Bonnie  
**Sent:** Tuesday, January 03, 2012 11:41 AM

To: 'kerry.l.kavanagh@wrд.state.or.us'

Cc: FRENCH Rod A

Subject: FW: OWRD: WR Application R 87763 (Storage) has been submitted for your District or Region. [DEQ]

Importance: High

Hi Kerry - Eric forwarded this review to me last week. In taking a quick look at it, it sounds like it is unlikely that OWRD will be issuing this permit based on your review. You have also requested that additional information be provided by January 19th.

Given this, I am wondering if you still need/want DEQ/ODFW reviews at this point. Thanks.

Bonnie

-----Original Message-----

From: [automated\\_email@wrд.state.or.us](mailto:automated_email@wrд.state.or.us) [mailto:[automated\\_email@wrд.state.or.us](mailto:automated_email@wrд.state.or.us)]

Sent: Friday, December 16, 2011 6:00 PM

To: [eric.nigg@state.or.us](mailto:eric.nigg@state.or.us)

Cc: [kenneth.l.smith@wrд.state.or.us](mailto:kenneth.l.smith@wrд.state.or.us); [Kathy.J.BOLES@wrд.state.or.us](mailto:Kathy.J.BOLES@wrд.state.or.us); [kerry.l.kavanagh@wrд.state.or.us](mailto:kerry.l.kavanagh@wrд.state.or.us)

Subject: OWRD: WR Application R 87763 (Storage) has been submitted for your District or Region. [DEQ]

Importance: High

DEQ review request for proposed water right application R 87763

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Oregon Water Resources Department - Automated e-mail notice  
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Application Stakeholder(s): DAVIS, IRL M.

Application Type: Storage

Notice Number: 1

Diversion Location:

County: Wasco

TRSQQ: 3.00S 13.00E 33 SWNE

Source: A SPRING

Tributary To: BUTLER CANYON

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To view the OWRD Web page for R 87763 please click the link below.

[http://apps.wrд.state.or.us/apps/wr/wrinfo/wr\\_query.aspx?SearchType=App&app\\_nbr\\_start=87763&app\\_char=R](http://apps.wrд.state.or.us/apps/wr/wrinfo/wr_query.aspx?SearchType=App&app_nbr_start=87763&app_char=R)

To view the Pending Reviews for your district or region and obtain Review Forms, click the following link.

[http://apps.wrд.state.or.us/apps/wr/external\\_review/deq\\_review.aspx?directory\\_id=122845](http://apps.wrд.state.or.us/apps/wr/external_review/deq_review.aspx?directory_id=122845)

If you have questions about this review request please contact Caseworker: KAVANAGH, KERRY L. at 503-986-0816 or [kerry.l.kavanagh@wrд.state.or.us](mailto:kerry.l.kavanagh@wrд.state.or.us)

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