

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 #: S 87964 Applicant's Name: Denny Doyle – City of Beaverton

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

Explain: The Willamette River is listed for temperature from its mouth to River Mile 186. The TMDL established load and wasteload allocations for temperature and demonstrates the connection between flow and river temperatures in the basin. The proposed withdrawal is within this reach at approximately River Mile 37 on the Willamette River near the city of Wilsonville.

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

Explain: DEQ's modeling shows that temperature is inversely related to flow during summer. Water temperatures increase as flow decreases. There is a discussion of this relationship in the Willamette TMDL, chapter 4, page 147.
<http://www.deq.state.or.us/wq/tmdls/docs/willamettebasin/willamette/chpt4temp.pdf>. The proposed 33.7 cfs withdrawal will contribute to lower flows and the potential for impact would be greatest during the summer months and during the periods of time, often before the first fall rains when flow is low and salmon may be rearing and spawning. DEQ recognizes that, while this withdrawal may add to adverse temperature conditions for fish, the effect may not be measurable.

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? Yes, the water quality listing on the 303(d) for temperature is directly related to the beneficial uses of salmon migration, rearing and spawning. Although salmonids are present in the system, the river is currently too warm to fully support these uses.

4) Can conditions be applied to mitigate the impact of the use?

☐ NO ☒ YES; recommend from Menu of Conditions and skip to question 7. Fishdiv33, wq, riparian

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?

DEQ would like to see in the permit conditions that are concurrent with the conditions requested by ODFW. The ODFW flow conditions meet DEQ TMDL flow needs. The minimum flow conditions to be met at the Salem gauge recommended by ODFW are repeated below for convenience:

October – 5,630 cfs

November through March – 6,000 cfs

April 1 to April 15 – 15,000 to 19,200 cfs

April 16 to April 30 – 17,000 cfs

May – 15,000 cfs

June 1 to June 15 – 12,600 cfs

June 16 to June 30 – 8,500 cfs

July through September – 5,630 cfs

DEQ also recommends that the applicant remain committed to a water conservation strategy as evidenced through ongoing water conservation measures and aquifer storage and recovery actions and continue other temperature mitigation projects as part of a watershed implementation plan associated with the Willamette and Tualatin basin TMDLs through the city's partnerships with the work of Clean Water Services. The applicant's utilization of ASR wells as a management tool during the peak summer demand conserves water from rivers.

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

DEQ Representative signature: Date:

WRD Contact: Caseworker: 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 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 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 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.