

ODFW Division 33 Application Work Sheet

Human Consumption Exception

Date: September 11, 2015

Application #: S- 88113

Applicant's Name: HOEFNAGEL, FREDERIC J., URE, BARBARA J.

Background

The Water Resources Department is attempting to streamline the review of water right applications involving a human consumption exception under Division 33. Oregon statute and administrative rules (OAR 690-410-0070(2) and OAR 690-310-0260(2)) allow for a human consumption exception at 0.005 cubic foot per second when water is not available due to senior water rights and/or scenic waterway flows. Under certain circumstances the use may be allowed because human consumption can be considered a high public use if no reasonable alternatives are available, and the use is conditioned to protect instream values. The information required for an applicant to request an exception is:

- 1) demonstrate that there are no reasonable alternative sources; and
- 2) demonstrate that denial of the application would result in loss of reasonable expectations for use of the property

Department recommendation

If the applicant is able to meet the human consumption exception criteria described above, based on water availability, applicable basin rules, etc., the Department will likely recommend year-round human consumption use (see Initial Review for specific use/rate/season details).

Your Role

Do you concur with the likely Department recommendation described in the Initial Review? If not, what is your recommendation and why?

YES NO

Explain (use additional sheets if necessary):

Lost Creek provides spawning, rearing, and migration habitat for summer (state sensitive) and winter steelhead, coho salmon (federally threatened), and coastal cutthroat trout.

According to the Oregon Plan Streamflow Restoration priority list, Lost Creek and the South Fork of Little Butte Creek are within an area that has been identified as "very high" ranking in terms of flow restoration needs. Multiple instream water rights exist in this area to protect and enhance populations of Native Migratory Fish (NMF). Furthermore, according to Oregon Department of Environmental Quality, the South Fork of Little Butte Creek is water quality limited for temperature, dissolved oxygen, E. coli, and sediment. Therefore, ODFW is concerned that further appropriation of water will significantly impact NMF in Lost Creek and downstream areas in a negative manner.

ODFW agrees with the Initial Review ruling of propose to deny. However, if OWRD procedes with processing this application ODFW believes this application can be conditioned to protect instream values. ODFW recommends the applicant permanently donate a portion of the properties irrigation right instream to mitigate for the applied for use. As the irrigation right only covers the irrigation season (April-October) ODFW recommends the applicant add an additional 5 months to the amount of water donated instream (during irrigation season) to offset the use occurring outside of irrgration season. In

addition, according to OAR 635-415-0025 (ODFW Habitat Mitigation Policy), Lost Creek is characterized as Habitat Category 2. As such, there must be a net benefit provided to enhance habitat quantity and/or quality.

In summary, if this application is approved, ODFW recommends a total of 6 acre/ft or 0.008 cubic feet per second of water be donated instream (during irrigation season) to mitigate for the proposed year 'round Human Consumption right applied for in this application.

ODFW also recommends a totalizing flow meter be installed at the new HC diversion point and the pump/diversion for the irrigation water monitored to reflect the instream donation.

Name/Signature: Peter Samarin Date: 9/11/2015



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