

ODFW Division 33 Application Work Sheet

Human Consumption Exception

Date: 9/14/2015

Application #: S- 88091

Applicant's Name: Michael Hamilton

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):


The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon and Watersheds. In addition, over the last few years, inflow into Lost Creek Reservoir has been considerably lower than the figures used in OWRD's Water Availability Report (Rogue River above Red Rock Canyon).

ODFW is concerned that OAR 690-310-0260 (4) (b) No alternate sources of water are reasonably available, has been satisfied in this application. The applicant has drilled a well that produces 1 gallon/minute of water. With holding tanks, ODFW believes this rate is higher than the rate provided under HC license on a daily basis. In addition, the application does not have a cost estimate for water to be trucked to the residence. How can the financial hardship criteria be considered without the cost estimate?

ODFW agrees with the Initial Review ruling of propose to deny, however, if OWRD determines that there is satisfactory evidence to proceed with this application, ODFW strongly recommends the applicant mitigate for the requested water use. Mitigation should be in the form of an instream donation of 6 acre/ft or 0.008 cubic feet per second of water (during irrigation season) to mitigate for the

proposed year 'round Human Consumption right applied for in this application. This amount should be applied to the months when surface water is not available as determined by OWRD.

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. In addition, contrary to the applicants assertion that Nye Ditch is equipped with fish screens, it is not. The applicant must be required to install and maintain fish screens (at the diversion point off Nye Ditch) consistent with ODFW's screening criteria. Water use shall not begin under this permit until OWRD receives written confirmation from ODFW that this criteria has been met.

Name/Signature: Peter Samarin Date: 9/14/2015 
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