

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- 88124 Applicant's Name: SEAL ROCK WATER DISTRICT

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

Explain: The proposed POD is located on the mainstem Beaver Creek, approximately 300 meters downstream of the confluence of North and South Forks Beaver Creek. The North and South Forks are identified as impaired on Oregon's 303(d) list. The North Fork is listed for not meeting seasonal and/or year-round standards for temperature Year Around (Non-spawning), dissolved oxygen and *E. coli*. The South Fork is listed for not meeting seasonal and/or year-round standards for temperature Year Around (Non-spawning), dissolved oxygen, pH and *E. coli*. DEQ is currently conducting data analyses and will be developing total maximum daily loads (TMDLs) for the impaired segments. Based on extent of the previously identified impairments, it is unlikely that the mainstem consistently meets state water quality standards from the confluence to the proposed POD and then downstream to at least to the location where it mixes with tidal waters and becomes estuarine, particularly during low flows and summer temperatures.

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

Explain: Current water availability is estimated and may be inadequate, especially for drought conditions. WRD's Water Availability Analysis tool indicates that *No instream flow requirements were found for this watershed*. The proposed withdrawal represents a significant portion (>10%) of the estimated mean stream discharge during July – October.

Based on the answer to #1 (above), DEQ and OWRD will not be able to adequately answer question #2 (a) without additional water monitoring data, (b) without accurate discharge data and (c) until data analyses (e.g., using water quality models or equivalent analyses) are complete. Reduced natural water discharge during critical periods exacerbates both elevated temperature and poor dissolved oxygen conditions. Oregon's standards for these two primary water quality conditions are based on salmonid and trout fish use designations (OAR 340-41). Therefore, we rank the potential as MEDIUM, with the caveat that more information is needed for this specific waterbody and withdrawal combination to inform a decision whether or not the use will negatively impact the waterbody and if so, the degree of the impacts.

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? The answer depends on the outcome of additional monitoring and data evaluation.

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

☐ NO ☒ YES; recommend from Menu of Conditions and skip to question 7. wq (see #6); b57

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?

1. Permit conditions should clearly require SRWD to fully implement its Approved water management plan (IR, Item 2).
2. DEQ recommends the following two conditions be included in the permit:

A. Discharge Monitoring: Following Permit issuance and prior to initiating water diversion from Beaver Creek (Alsea), the Permittee shall develop and install a discharge monitoring system at or near the POD that is reviewed and approved by OWRD (e.g., using a pressure gage calibrated to stage height and discharge through a rating curve developed in coordination with OWRD). Discharge monitoring will be conducted from May 15 to October 15 (at a minimum) to correspond with the end and onset of the designated spawning season (respectively) and lower flow periods. The monitoring shall be conducted for a minimum of five years to establish baseline data. Discharge data (instream flow measurements and pressure gage readings) will be made available to OWRD by December 31 each year or as requested. The Applicant will develop and maintain a quality assurance plan to ensure data quality meets minimum OWRD data quality objectives for the equipment that is selected and associated instream discharge measurements.

B. Water Temperature monitoring: Following Permit issuance and prior to initiating water diversion from Beaver Creek (Alsea), the Permittee shall install continuous temperature data loggers that meet the specifications of devices approved by DEQ for this application¹ at locations upstream and downstream of the POD to assess the thermal impacts of water withdrawal on Beaver Creek. The temperature monitoring shall be conducted for a minimum of five years from Permit issuance.

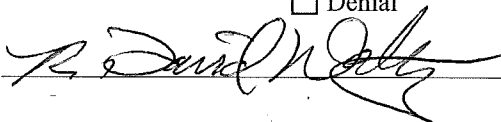
The Permittee must develop and maintain a sampling and analysis plan (SAP)² to identify project management responsibilities, monitoring locations, schedule, quality assurance and data management activities to ensure that monitoring data meets minimum DEQ data quality objectives for the equipment that is selected³.

Data loggers shall be deployed during the period from June 1 to October 15 and programmed to record data every 30 minutes. The Permittee must conduct field audit accuracy checks in accordance with the SAP to ensure data loggers are functioning properly. If a device fails an accuracy check and cannot meet data quality objectives, the Permittee must replace the device within 30 days.

Temperature data and supporting audit documentation will be made available to DEQ and OWRD by December 31 each year or upon request of the Director. The Permittee shall maintain temperature monitoring data and original accuracy data documentation for ten years from the date that monitoring data collection begins. The Permittee shall notify DEQ and OWRD if Oregon's salmon and trout rearing and migration temperature standards⁴ (18 deg C) are exceeded in order to evaluate appropriate management strategies.

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

DEQ Representative signature:



Date: 01/22/2016

WRD Contact: Caseworker: Kim French Water Rights Division, 503-986-0816 / Fax 503-986-0901

¹ Onset HOBO Water Temperature Pro v2 Data Logger Part # U22-001 (or equivalent) <http://www.onsetcomp.com/products/data-loggers/u22-001>

² DEQ can provide guidance and technical assistance with preparation of the SAP and aspects of monitoring:
<http://www.deq.state.or.us/lab/wqm/volmonresources.htm>

³ See Data Quality Matrix at: <http://www.deq.state.or.us/lab/techrpts/technicaldocs.htm>

⁴ OAR 340-041-0028 Temperature...(c) The seven-day-average maximum temperature of a stream identified as having salmon and trout rearing and migration use on subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A, may not exceed 18.0 degrees Celsius (64.4 degrees Fahrenheit)

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.