

# 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 88363 Applicant's Name: Rudolf and Carolyn Feimer

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

Explain: The application proposed the diversion of 0.005 cubic foot per second (CFS) of water from the Chetco River and an unnamed stream, tributary of the Chetco River for human consumption. The Chetco River from river mile 0 to 57.1 is water quality limited for the parameter temperature for the salmon and trout rearing and migration use and this impairment is listed on the Oregon Department of Environmental Quality (ODEQ) 303(d) 2012 Assessment. The unnamed tributary to the Chetco River and Source #2 for the application has a direct connection to the Chetco River with a small drainage area of .09 miles. Data from the USGS StreamStats program suggests that the unnamed tributary to the Chetco runs seasonally with low to no flows during July through October period depending upon season.

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

Explain: As stated above, the Chetco River is water quality limited for the parameter temperature for the salmonid rearing and migration use, continued reductions in flow, or tributary water flow, may continue to exacerbate unfavorable water quality conditions for fish. Oregon Administrative Rules, Division 41 state that anthropogenic water withdrawals can have a warming affect upon surface water temperatures. The proposed area of diversion is located low within the Chetco River subbasin where elevated water temperatures do not meet the state water quality standards. Often tributaries to large river systems can offer cool water refugia to rearing and migrating salmonids, further water withdrawals from the tributary have the potential to deleteriously impact cool water inputs to the Chetco River and limit salmon and trout beneficial uses.

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 Oregon Fish Use Designations for the Chetco River are salmon and trout rearing and migration uses; the proposed consumptive use will contribute to lower flows and higher temperatures to the Chetco River and will limit the cold water refugia the tributary provides the lower Chetco River.

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

☒ NO

☐ YES; recommend from Menu of Conditions and skip to question 7.

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: The Oregon Fish Use Designations for the Chetco River are salmon and trout rearing and migration uses; the Chetco River provides habitat for ESA threatened coho salmon. Surface water withdrawals can exacerbate low flow conditions which results in higher river temperatures which can limit coho salmon rearing and migration.

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

If a permit is issued for human consumption it will be essential that a water meter be required at the point of diversion and that reporting of water use to the Oregon Water Resource Department be required to track usage. (Condition b57). DEQ suggests the applicant explore rain water collection and storage and/or the purchase and storage for the property from a local municipality. Given the current level of allocation of water resources in the Chetco River and the challenges facing water quality managers in meeting existing Oregon water quality standards it seems prudent to protect the remaining instream water values for their designated uses.

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

DEQ Representative signature:



Date:

4/17/2017

**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.