

Oregon Department of Fish and Wildlife's WATER RIGHT APPLICATION REVIEW SHEET

The Oregon Department of Fish and Wildlife (ODFW) provides the following recommendations to protect and enhance Oregon's fish and wildlife and their habitats for use and enjoyment by present and future generations. Mitigation recommendations are to be consistent with the goals and standards in ODFW's OAR 635-415 (Fish and Wildlife Habitat Mitigation Policy) and other applicable law. The information is requested by the Oregon Department of Water Resources (OWRD) for the purposes of consultation pursuant to OAR 690-33 (Additional Public Interest Standards for New Appropriations), OAR 690-310 (Water Rights Application Processing), OAR 690-400 (State Water Resources Policy), and OAR 690-410 (Statewide Water Resource Management).

Section 1: Location of Proposed Use

Note: This section is for internal ODFW use only.

Basin: John Day Stream: Fairman Spring Tributary to: John Day River TRSQQ: type here (optional)

Section 2: Sensitive, Threatened, and/or Endangered (STE) Fish Species and Habitat

No STE fish species will be impacted by the proposed use. **(Skip to Section 6)**

STE Species	Listing Status ¹			Months Present -OR-	Life Stage Present			Habitat Category ²						
	S	T	E		Egg	Juvenile	Adult	1	2	3	4	5	6	
Chinook, spring	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chinook, summer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chinook, fall	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chinook, winter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chum	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Coho	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sockeye	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Steelhead, summer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Steelhead, winter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bull trout	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cutthroat trout	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Redband trout	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pacific lamprey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- The proposed use will impact 13 threatened and/or endangered species in the Columbia River basin. Species include upper Columbia River spring Chinook, Snake River spring/summer Chinook, lower Columbia River Chinook, upper Willamette Chinook, Snake River fall Chinook, Columbia River chum, lower Columbia River Chinook, Snake River sockeye, upper Columbia River steelhead, middle Columbia River steelhead, Snake River basin steelhead, lower Columbia River steelhead, and upper Willamette steelhead.
- The proposed use during April 15 – September 30 will impact Category 2 Habitat.

¹ S = sensitive, T = threatened, and E = endangered

² See ODFW Habitat Mitigation Policy, OAR 635-415-0025 and "Identifying a Habitat Category and Recommending a Mitigation Obligation for Proposed New Water Uses"

Section 3: Potential Impacts & ODFW Findings (under OWRD's Division 33)

Note: This section does not include specific impacts to water quality parameters that may impair fish, as ODFW understands that water quality assessments will be conducted by the Department of Environmental Quality. Impacts identified below may be determined by professional judgment. Recommended mitigation for identified impacts is outlined in Section 7. See Section 9 for complete "condition" language.

3.1 Fish Passage and Screening

A) Would the proposed use potentially create or maintain an artificial obstruction³ to fish passage for STE native migratory fish currently or historically present *at the point of diversion*?

YES; "Passage"

Note: The proposed use may create an artificial obstruction to fish passage.

NO; Fish passage per ORS 509.585 is NOT required.

B) Would STE fish species benefit from fish screening?

YES; "Screen"

Note: An unscreened diversion will harm aquatic life.

NO; Fish screening per ORS 498.306 is NOT required.

C) Fish screening and passage would not currently benefit STE fish species but may be beneficial in the future.

"Future Protection"

Note: Screening and/or passage may be required in the future if conditions within the watershed change.

3.2 Instream Flow

A) ODFW has not identified biologically necessary flows within the impacted reach. However, based on best professional judgment, impacts to fish and wildlife habitat from the proposed reduction in flow are expected to be inconsequential, and no compensation for a reduction in flow is recommended. **(Skip to Section 3.3)**

B) There is an instream water right(s) (ISWR) that supports biological base flows for STE fish species at the Point of Diversion or downstream (*see WRD's Attribute Table*).

Certificate(s): type here

C) ODFW has identified the following biologically necessary flows not captured in an instream water right (e.g., flows in a Basin Investigation Report, Persistence Flow Determination, Seasonally Varying Flow prescription, or other flow analysis) that would benefit STE fish species at the Point of Diversion or downstream:

JAN	type here	APR	type here	JUL	type here	OCT	type here
FEB	type here	MAY	type here	AUG	type here	NOV	type here
MAR	type here	JUN	type here	SEP	type here	DEC	type here

Source: type here (copy table, as needed)

³ A person owning or operating an artificial obstruction may not construct or maintain any artificial obstruction across any waters of this state that are inhabited, or historically inhabited, by native migratory fish without providing passage for native migratory fish.

D) Are the biologically necessary flows identified above **available**⁴ during the period of impact?

- YES; A further reduction in flow from the proposed use will **not** impair the identified biologically necessary flows for STE fish as long as the identified instream flows are being fulfilled.

Note: Mitigation for a reduction in biologically necessary flows [Section 7, FLOW] is unnecessary, but mitigation [Section 7, HABITAT RESTORATION] may be required for other impacts identified in Section 3.3.

- NO; **“Biologically Necessary Flows”**

The proposed use **will impair** the identified biologically necessary flows for STE fish wholly or partially during the period of impact. To protect beneficial uses [see OAR 690-410-0070(2)(h)], ODFW recommends the biologically necessary flows identified in Section 3.2 A or B (or, if applicable, those flows adjusted to current Estimated Average Natural Flow values per [see OAR 690-077-0015(4)] be met or mitigated for (see Recommended Mitigation Obligation in Section 7) prior to diversion of water.

- The proposed use will impact **irreplaceable**, essential habitat that is limited on either a physiographic province or site-specific basis. *Note: This is Habitat Category 1.*
- The proposed use will reduce/degrade **essential** spawning, rearing, and/or migration habitat that will result in depletion of a species if diminished. *Note: This is Habitat Category 2 or 3.*
- The proposed use will reduce/degrade **important** habitat recognized as a contributor to sustaining populations over time. *Note: This is Habitat Category 3 or 4.*
- The proposed use will reduce/degrade habitat that has a **high potential** to become essential or important. *Note: This is Habitat Category 5.*
- The proposed use will reduce/degrade habitat that has a **low potential** to become essential or important. *Note: This is Habitat Category 6.*

E) Additional Flow Conditions:

- “Bypass Flows”** (recommended pass-through flows for reservoirs that directly divert from surface water)
- Site-specific condition(s): type here

3.3 Other Impacts to Ecological Functions Important to STE Fish

Note: Mitigation may be recommended in Section 7, HABITAT RESTORATION.

- The proposed dam or reservoir will detrimentally **inundate a wetland**.
- Development of the point of diversion may reduce/degrade the **riparian area**.
- The proposed use will limit access to or directly impair **cold-water refugia**.
- Other impacts to STE fish: type here

⁴ Based on information in the Watermaster Review (preferred documentation) and/or WRD's Water Availability Reporting System

Section 4: Additional Supporting Documentation

Note: This section lists additional documentation, when available, that supports the potential impacts identified in Section 3.

Based on ODFW's knowledge of applicable Subbasin Plans, Recovery Plans, Regional Restoration Plans, or other documents, the proposed use:

- appears inconsistent with the Northwest Power and Conservation Council's Columbia River Basin Fish and Wildlife Program (for uses within the Columbia basin)⁵.
- will be detrimental to the protection and/or recovery of STE species.

Subbasin Plan: type here

Recovery Plan(s): type here

Regional Restoration Program(s) : type here

Oregon Conservation Strategy: type here

Oregon Nearshore Strategy: type here

Other Documentation: type here

Section 5: ODFW's Recommended Next Steps (under OWRD's Division 33)

Actions Recommended Prior to WRD's Issuance of Proposed Final Order:

- [Section 2; Section 3.2, Question D] The proposed use will impact irreplaceable, essential habitat for a fish species, population, or a unique assemblage of species that is limited on either a physiographic province or site-specific basis (i.e., Category 1 Habitat). ODFW recommends avoidance of the impact through alternatives to the proposed use or no authorization of the proposed use if impacts cannot be avoided.
- [Section 3.2, Question D; Section 3.3] Available information shows flows within the impacted reach are currently wholly or partially below those essential to support the biological needs of STE fish and/or the proposed use will otherwise impact habitat. Without appropriate mitigation, a further reduction in flow or alteration of habitat from the proposed water use will impair or be detrimental to STE fish. ODFW recommends the applicant submit, to the application caseworker at WRD, a Mitigation Proposal that fulfills the Mitigation Obligation (consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations)) outlined in Section 7, and other conditions recommended below (from Section 3), to compensate for any potential impact from the proposed use.

Permit Conditions:

Passage and Screening [Section 3.1]

- "Passage"** [Question A]
- "Screen"** [Question B]
- "Future Protection"** [Question C]

⁵ Water Resources Department's document number 94-2

Instream Flow [Section 3.2]

- “Biologically Necessary Flows”** [Question D]
- “Bypass Flows”** [Question E]
- Site-specific condition(s) [Question E]: type here

Section 6: ODFW's Public Interest Findings (under OWRD's Division 310)

- A) Will the proposed use occur in an area that may affect the habitat of wildlife or non-listed fish species?
- YES; Wildlife or non-listed fish species are present during the period of impact.
Wildlife species present:
Non-listed fish species present: type here
- NO; Wildlife or non-listed fish species' habitat will not be affected by the proposed use.
- B) Do the next steps and recommended conditions provided in this review thus far (i.e., Findings under WRD's Division 33) compensate for habitat impacts for the wildlife or non-listed fish species present?
- YES; Additional conditions are **NOT** necessary.
- NO; Additional conditions are recommended.
Please describe how the proposed use will affect wildlife or non-listed fish species: type here

- C) The following additional conditions are recommended to protect wildlife or non-listed fish:

Passage and Screening

- “Passage”**
- “Screen”**
- “Future Protection”**

Instream Flow

- “Biologically Necessary Flows”**
- “Bypass Flows”**

Other

- Site-specific condition(s): type here

- D) Available information shows flows within the impacted reach are currently wholly or partially below those essential to support the biological needs of fish or wildlife, and/or the proposed use will otherwise impact habitat. Without appropriate mitigation, a further reduction in flow or alteration of habitat from the proposed water use will impair or be detrimental to fish, wildlife, and/or their habitat. ODFW recommends the applicant submit, to the application caseworker at WRD, a Mitigation Proposal that fulfills the Mitigation Obligation (consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations)) outlined in Section 7, as well as conditions recommended in Question C.

E) ODFW has identified the Habitat Category(ies) for the primary species of concern that are potentially impacted by the proposed use as follows:

Note: Only identify a Habitat Category(ies) if additional mitigation is recommended (Question D).

Species	Habitat Category ⁶ for Primary Species of Concern					
	1	2	3	4	5	6
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>type here</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Section 7: ODFW Mitigation Recommendations

If mitigation has been recommended, available information shows flows within the impacted reach are currently wholly or partially below those essential to support the biological needs of fish, wildlife, or habitats and/or the proposed use will otherwise impact habitat. A further reduction in flow or alteration of habitat from the proposed water use will impair or be detrimental to fish, wildlife, and/or their habitat without appropriate mitigation. The proposed use may diminish physical habitat and alter the flow regime to which fish are naturally adapted, negatively impacting their distribution, productivity, and abundance. If identified previously, ODFW recommends the applicant submit, to the application caseworker at WRD, a Mitigation Proposal that fulfills the Mitigation Obligation (consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations)) outlined below, as well as other conditions recommended in Section 3 and/or Section 6. ODFW recommends the Proposal include an assessment of options using the following actions listed in order of priority: (1) avoiding the impact altogether, (2) minimizing the impact by limiting the degree or magnitude of the action, (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment, (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the development action and by monitoring and taking appropriate corrective measures, and (5) compensating for the impact by replacing or providing comparable substitute resources or environments.

Because the mitigation is site- and species-specific, ODFW recommends written approval of the Proposal by ODFW prior to issuance of a Proposed Final Order. The mitigation provided shall be legally protected and maintained for the life of the permit and subsequent certificate. **ODFW recommends the applicant contact the caseworker to schedule a consultation with the local ODFW Fish Biologist concerning the recommended Mitigation Obligation.**

⁶ see “Identifying a Habitat Category and Recommending a Mitigation Obligation for Proposed New Water Uses”

ODFW's Recommended Mitigation Obligation⁷

Impacts to fish and wildlife habitat from the proposed use are expected to be inconsequential. Therefore, ODFW has determined that mitigation is not necessary.

For Habitat Categories 3 - 6, the applicant may choose FLOW MITIGATION -OR- HABITAT RESTORATION. See details of each Mitigation Obligation below. (*Note: check both boxes below.*)

FLOW

1) Water Quantity and Months:

Note: The applicant may propose a water quantity less than the requested use, or equivalent % PSI listed, if the benefit is greater than the impact (e.g. a smaller amount of water protected for a longer distance). The applicant may also show that replacement of only the consumptive use portion achieves no net loss of habitat quality or quantity. However, the applicant must agree to maintain the consumptive portion as proposed for the life of the permit and subsequent certificate.

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FEB	type here	MAY	type here	AUG	type here	NOV	type here
MAR	type here	JUN	type here	SEP	type here	DEC	type here

plus a net benefit

2) Location of Mitigation:

Note: If water for water mitigation is not provided within the impacted reach, the proposed use may trigger requirements for fish passage (ORS 509.585) by creating an artificial obstruction due to low flow.

- within the watershed (HUC 8) **at or above** the point of diversion
- at or above the point of diversion is preferred, but may occur within the watershed (HUC 8) of the impacted population(s)
- within the watershed (HUC 8) of the impacted population(s)
- benefitting flows in the Columbia River within the impacted reach
- benefitting the impacted population(s) and/or higher priority species: list species here

3) Additional comments: type here

⁷ See reference document "Identifying a Habitat Category and Recommending a Mitigation Obligation for Proposed New Water uses" for guidance on completing this section.

ODFW's Recommended Mitigation Obligation, continued

HABITAT RESTORATION

1) Habitat Structure and Function in Need of Replacement:

- spawning migration other: type here
- rearing riparian area

2) Habitat quantity to be replaced: type here

3) Months: **in perpetuity**

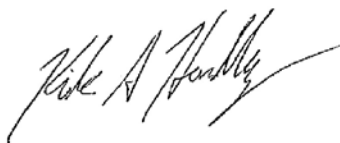
4) Location of Mitigation:

Note: If water for water mitigation is not provided within the impacted reach, the proposed use may trigger requirements for fish passage (ORS 509.585) by creating an artificial obstruction due to low flow.

- within the watershed (HUC 8) **at or above** the point of diversion
- at or above the point of diversion is preferred, but may occur within the watershed (HUC 8) of the impacted population(s)
- within the watershed (HUC 8) of the impacted population(s)
- anywhere benefitting the impacted population(s) and/or higher priority species¹¹: list species here

5) Additional comments: type here

ODFW Representative's Signature:



Date: 11/6/2017

Name: Kirk Handley

Phone: 541-575-1167

Email: kirk.a.handley@state.or.us

Section 8: ODFW's Review of the Mitigation Proposal

Note: If requested by WRD, this form is to be completed after review of the Mitigation Proposal and prior to WRD's issuance of the Proposed Final Order.

ODFW supports the Mitigation Proposal with the following condition(s):

"Mitigation"

A Fish Passage Waiver or Exemption has been granted for the proposed POD that fulfills the fish passage requirements for this use.

Site-specific condition(s): type here

ODFW cannot support the Mitigation Proposal because it is not consistent with the criteria in OAR 635-415.

The proposed mitigation will result in a net loss of essential habitat for: list species here

Other goals and standards not met: type here and explain why not met

ODFW Representative's Signature: _____ **Date:** type here

Name: type here

Phone: type here

Email: type here

Section 9: ODFW's Recommended Condition Language

Biologically Necessary Flows

To protect beneficial uses [OAR 690-410-0070(2)(h)], ODFW recommends the biologically necessary flows identified in Section 3.2 (or, if applicable, those flows adjusted to current Estimated Average Natural Flow values per [OAR 690-077-0015(4)] be met or mitigated for prior to diversion of water.

Bypass Flows (for reservoirs that directly divert from surface water)

ODFW recommends bypass (pass-through) flows be provided at this diversion equal to or greater than the biologically necessary flows identified in Section 3.2 any time water is diverted from the source stream to fill the storage facility [OAR 690-410-0070(2)(c)]. Once the facility has reached the permitted capacity, ODFW recommends all live flow be passed downstream at a rate equal to the inflow. ODFW recommends the permittee submit a Bypass Proposal to the Oregon Water Resources Department for its approval prior to diversion of water, which describes the method by which the permittee will bypass the recommended flows.

Future Protection

ODFW has determined that fish screening and passage are not necessary at the time of permit issuance, but the permittee may be required in the future to install, maintain, and operate fish screening per ORS 498.306 and/or upstream and downstream fish passage per ORS 509.585 to prevent harm to fish from the proposed diversion.

Mitigation

ODFW recommends the permittee comply with terms of the associated Mitigation Proposal on file at the Water Resources Department to compensate for detrimental impacts to fish, wildlife, and/or their habitat. The Mitigation Proposal is fully incorporated into the requirements of this permit and may only be altered by written mutual agreement of all parties. ODFW recommends (1) the mitigation provided be legally protected and maintained for the life of the permit and subsequent certificate and (2) regulation of the use and/or cancellation of the permit or subsequent certificate(s) if the required mitigation is not maintained.

Passage

As required by ORS 509.585, the permittee shall not construct, operate, or maintain any dam or artificial obstruction to fish passage across any waters of this state that are inhabited, or were historically inhabited, by native migratory fish without obtaining approval from ODFW. The permittee shall either submit a proposal for fish passage to ODFW or apply for a waiver or exemption. Approval of the proposed fish passage facility, waiver, or exemption must be obtained prior to construction of any in-channel obstruction or prior to diversion of water that may create an artificial obstruction due to low flow, and the permittee shall submit proof to ODFW that fish passage has been implemented per the plan, waiver, or exemption prior to diversion of water. The permittee shall maintain adequate passage of native migratory fish at all times (ORS 509.601) as per the approved plan, waiver, or exemption. If ODFW determines adequate passage of native migratory fish is not being provided, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that adequate fish passage is being provided. The permittee is hereby directed to schedule a consultation with an ODFW Fish Passage Coordinator.

Screen

The permittee shall install, maintain, and operate fish screening consistent with current ODFW standards or submit documentation that ODFW has determined fish screening is not necessary. Fish screening is to prevent fish from entering the proposed diversion. The required screen is to be in place, functional, and approved in writing by ODFW prior to diversion of water. The water user shall operate and maintain the fish screen consistent with ODFW's operation and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly. The permittee is hereby directed to schedule a consultation with an ODFW Fish Screening Coordinator.