



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

(503) 986-0900

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March 22, 2019

Director

In Care of Anna Pakenham-Stevenson
Oregon Department of Fish and Wildlife
4034 Fairview Industrial Drive SE
Salem, OR 97302-1142

Reference: Instream water rights in the North Coast Basin, File IS-88532.

Dear Oregon Department of Fish and Wildlife:

**THIS IS NOT A WATER RIGHT CERTIFICATE
AND IS SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING**

This letter is to inform you of the preliminary analysis of your water right application. This document, called an "Initial Review", is to inform you of the potential limitations to your proposed instream water right and to describe some of your options. Based on the information you have provided, the Water Resources Department has made the following preliminary determinations:

Please reference the application number when sending correspondence regarding conclusions of this Initial Review. Comments received within the comment period will be evaluated at the next phase of the process.

Initial Review Determinations:

1. The referenced application is complete and not defective. The proposed use is not prohibited, restricted or limited by law except for water availability limitations in certain months as depicted below.
2. The reach proposed in this application for an instream water right is in the North Coast Basin.
3. The instream fish life uses and wildlife use are allowed under the North Coast Basin Program OAR (690-501-0005(1)(g)(B)).
4. Water allocable for instream use is limited to the estimated average natural flow. Specifically, (OAR 690-077-0015(4) states "If natural streamflow or natural lake levels are the source for meeting instream water rights, the amount allowed during any identified time period for the water right shall not exceed the estimated average natural flow or level occurring from the drainage system except where periodic flows that exceed the natural flow or level are significant for the applied public use".
5. All amounts of water identified in this document are in cubic feet per second.

Summary of Determination:

6. Some percentage of the water applied for has been determined allowable for the purpose identified in the application. The amount of water allowable for instream use is shown in the table below.

Application: IS-88532

Priority date: March 21, 2018

Description:

Buster Creek, tributary to Nehalem River, beginning just below the confluence with an unnamed tributary at river mile 6.2 (NESE, S21, T5N, R6W, WM) in Clatsop County (45.899872, -123.422496) and continuing downstream to the mouth river mile 0.0 (NENE, S26, T5N, R7W, WM) in Clatsop County (45.893856, -123.507472).

a. The amount of water requested for instream use:

Requested for Fish life and fish habitat:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
64	64	64	64	43	29	5	5	5	30/51	64	64

Estimated average natural flow:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
95.8	85.5	69.3	41.6	20.4	10.3	5.63	3.32	3.9	7.42	46.4	84.5

Allowable instream use:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
64	64	64	41.6	20.4	10.3	5	3.32	3.9	7.42	46.4	64

The application may move to the next phase of the water rights application review process. Comments received within the initial review comment period will be evaluated. Following evaluation of the comments, the department issues a proposed final order. Issuance of the proposed final order includes a 45 day protest period.

Withdrawal:

If you choose not to proceed, you may withdraw your application. To accomplish this you must notify the Department in writing by April 9, 2019.

To Proceed with Your Application:

If you choose to proceed with an application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a proposed final order.

If you have any question:

Feel free to call R. Craig Kohanek at (503) 986-0823 if you have questions. Please have the application number available if you call.

APPLICATION FACT SHEET

Application File Number: IS-88532

Applicant: Oregon Department of Fish and Wildlife

County: Clatsop

Watermaster: Nikki Hendricks, District #1

Priority Date: March 21, 2018

Source: Buster Creek, tributary to Nehalem River

Uses: Fish life and wildlife

Quantity Allowable Instream Use:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
64	64	64	41.6	20.4	10.3	5	3.32	3.9	7.42	46.4	64

Basin Name & Number: North Coast Basin, #1

OWRD Streamcode: BUSTER CR > NEHALEM R – 01013000200700, WAB 71927

PUBLIC NOTICE DATE: March 26, 2019

30 DAY COMMENT DEADLINE DATE: April 25, 2019

Mailing List for IR Copies

Application: IS-88532

Date: March 22, 2019

Original mailed to:

Applicant:

Director

In Care of Anna Pakenham-Stevenson

Oregon Department of Fish and Wildlife

4034 Fairview Industrial Drive SE

Salem, OR 97302-1142

Send Auto Email

1. Watermaster: Nikki Hendricks, District #1
2. ODFW District Biologists: Robert Bradley, Mike Sinnott
3. DEQ: York Johnson, North Coast-Lower Columbia Region

Copies sent to:

4. WRD - File
5. WRD - Hydrographics

IR, Map, and Fact Sheet Copies sent to:

(NOTE: please send only one copy per office, even if there is more than one name on the list)

6. USFWS Newport Field Office 2127 SE Marine Science Drive, Newport, OR 97365
7. NW Power & Conservation Council, 851 SW Sixth Ave., Suite 1020, Portland, OR 97204-1347
8. Department of Agriculture: Jim Johnson & Paul Measeles, Salem OR
9. DSL: Shawn Zumwalt , Salem OR
10. Confederated Tribes of the Grand Ronde; 47010 SW Hebo Rd, Grand Ronde Oregon, 97347; Attn: Mike Wilson
11. Confederated Tribes of Siletz Indians; PO Box 549, Siletz , OR 97380; Attn: Mike Kennedy

Caseworker: R. Craig Kohanek

Copies Mailed by:

STAFF)

on: _____
(DATE)