



February 9, 2021

Oregon Department of Fish and Wildlife  
4034 Fairview Industrial Drive SE  
Salem, OR 97302-1142

Reference: Instream water rights in the Rogue Basin, Application IS-88941.

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 document is to inform you of the preliminary analysis of your water right applications, 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.

**Preliminary Determinations (Oregon Administrative Rule (OAR) 690-077-0029)**

1. The application proposes the instream protection of water in Fruitdale Creek for the conservation, maintenance and enhancement of aquatic and fish life, wildlife and fish and wildlife habitat.
2. The referenced application is complete and not defective.
3. The proposed use is not prohibited, restricted, or limited by law except for water availability limitations in certain months as noted below.
4. The reach proposed in this application for an instream water right is in the Rogue Basin.
5. The instream fish life, and wildlife uses are allowed under the Rogue Basin Program OAR (690-515-0040(1)(D)(vii).
6. 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".

7. All amounts of water in this document are shown in cubic feet per second.

**Application IS-88941**

**Priority date: November 30, 2020**

**Description:**

Fruitdale Creek, tributary to Rogue River, beginning at river mile 1.6 (NENE, S32, T36S, R5W, WM) in Josephine County (42.403665, -123.309914) and continuing downstream to the mouth river mile 0.0 (NWSW, S21, T36S, R5W, WM) in Josephine County (42.422985, -123.30584).

a. The amount of water requested for instream use:

Fish Life and Fish Habitat:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
9	9	9	8	4.3	2.8	1.1	0	0	0	6.4	9

Estimated Average Natural Flow:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
6.88	8.85	7.86	3.62	1.2	.73	.34	.26	.2	.27	.79	5.24

Allowable Instream Use:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
6.88	8.85	7.86	3.62	1.2	.73	.34	0	0	0	.79	5.24

**Summary of Determination:**

A percentage of the water applied for has been determined allocable for the purpose(s) identified in the application. That rate allowed is shown in the table above titled “Allowable Instream Use” and, if less than the rate shown in “Requested for Fish Life and Fish Habitat” table, is limited to the rate shown in the “Estimated Average Natural Flow” table.

The application can be moved to the next phase of the water rights application review process. Comments received within the comment period will be evaluated at the next phase of the process.

**Withdrawal:**

If you choose not to proceed, you may withdraw your application. To accomplish this, you must notify the Department in writing by **February 23, 2021**.

**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 contact R. Craig Kohanek at (503) 986-0823 or [Ron.C.Kohanek@oregon.gov](mailto:Ron.C.Kohanek@oregon.gov) if you have questions. Please have the application number available if you call.

Sincerely,

R. Craig Kohanek  
Water Rights Analyst

Cc: File  
Watermaster #13

APPLICATION FACT SHEET

Application File Number: IS-88941

Applicant: Oregon Department of Fish and Wildlife

County(ies): Josephine

Watermaster: Scott Ceciliani, District #14

Priority Date: November 30, 2020

Source: Fruitdale Creek, tributary to Rogue River

Basin Name & Number: Rogue Basin, #515

WAB: 255

Allowable Instream Use:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
6.88	8.85	7.86	3.62	1.2	.73	.34	0	0	0	.79	5.24

PUBLIC NOTICE DATE: Tuesday, February 9, 2021

30 DAY COMMENT DEADLINE DATE: **Thursday, March 11, 2021**

## Mailing List for IR Copies

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Application: IS-88941

Date: February 9, 2021

### **Original mailed to:**

Applicant:  
Oregon Department of Fish and Wildlife  
4034 Fairview Industrial Drive SE  
Salem, OR 97302-1142

### **Send Auto Email**

1. Watermaster: Scott Ceciliani, District #14
2. ODFW District Biologists: Todd Confer
3. DEQ: [southcoast@deq.state.or.us](mailto:southcoast@deq.state.or.us)
4. Surface Water Section

### **Copies sent to:**

WRD - File

### **IR, Map, and Fact Sheet Copies provided to:**

5. US Fish & Wildlife: Nancy Gilbert,  
63095 Deschutes Market Rd, Bend OR 97701-9794
6. NW Power & Conservation Council,  
851 SW Sixth Ave., Suite 1020, Portland, OR 97204-1347
7. Department of Agriculture: Jim Johnson & Paul Measeles  
Salem OR
8. DSL:
9. Tribe(s)

Caseworker: Craig Kohanek

Copies Mailed by:

\_\_\_\_\_  
(STAFF)

on: \_\_\_\_\_  
(DATE)