

ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant.

Applicant Name/Address/Phone/Email: Full Circle Properties LLC

PO Box 471, Williams, OR 97544; 541-415-055; info@fullcirclebisonranch.com

Reservoir Name: 1 Source: Runoff Volume (AF): 9

Twp Rng Sec QQ: T39S R5W S7 NENE Basin Name: WF Williams/Williams/Applegate
 in-channel
 off-channel

Note: It is unlikely that ODFW will be able to complete this form while you wait, nevertheless we recommend making an appointment to submit the form so as to provide any necessary clarifications. See pg. 6 of Instructions for contact information.

This portion to be completed by Oregon Department of Fish and Wildlife (ODFW) District staff.

1) Is the proposed project and AO¹ off channel? × YES NO*
 (if yes then proceed to #4; if no then proceed to #2)

*Based on available information, the proposed use does not appear to involve instream structures that would create or maintain an artificial obstruction. However, if the applicant creates or maintains an artificial obstruction to fish passage for the proposed use, the applicant will need to address Oregon's fish passage laws.

2) Is the proposed project or AO located where NMF² are or were historically present?..... YES NO
 (if yes then proceed to #3; if no then proceed to #4)

3) If NMF are or were historically present:

- a. Is there an ODFW-approved fish-passage plan?..... YES NO
- b. Is there an ODFW-approved fish-passage waiver or exemption?..... YES NO

If fish passage is required under ORS 509.580 through .910, then either 3(a) or 3(b) must be "Yes" to move forward with the application. If responses to 3(a) and 3(b) are "No", then the proposed reservoir does not meet the requirements of Oregon Fish Passage Law and shall not be constructed as proposed.

4) Would the proposed project pose any other significant detrimental impact to an existing fishery resource locally or downstream?.....× YES NO
 Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)

- × Any diversion or appropriation of water for storage during the period **January through December** poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.) If NMF fish are present at the project site or point of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.
- This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

¹ AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)

² NMF = Native Migratory Fish Species in Oregon as defined by OAR 635 - 412 - 0005 (32)

Fish present at the location of the proposed use or otherwise impacted by the proposed use include Coho Salmon (ESA Threatened Species), Summer (State Sensitive Species) and Winter Steelhead, and Pacific Lamprey (State Sensitive Species). There are instream water rights in West Fork Williams (C72666) and Williams (C59774 and C72669) Creeks for supporting aquatic life that will be impacted by the proposed use. Water availability tables provided by OWRD show that flows are not available to fulfill C59774 and C72669 for fish needs from January – December. West Fork Williams and Williams Creeks are water quality limited for temperature and dissolved oxygen year round. Therefore, the proposed use **will impair** the identified biologically necessary flows and water quality for fish wholly or partially and pose a significant detrimental impact to an existing fishery resource locally and downstream.

If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?

NO (explain)

YES (select from Menu of Conditions on next page)

Available information shows flows within the impacted reach are currently wholly or partially below those essential to support the biological needs of fish and/or the proposed use will otherwise impact habitat or ecological functions important to fish. 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. Therefore, a further reduction in flow or alteration of habitat from the proposed water use will impair or be detrimental to fish and/or their habitat without appropriate conditions and/or mitigation. ODFW recommends the conditions below to compensate for any potential impact from the proposed use.

ODFW's Recommended Conditions:

- 1) **Wetland:** To protect beneficial uses, the Oregon Department of Fish and Wildlife recommends the applicant submit an offsite determination request to the Oregon Department of State Lands (DSL) to determine the need for a wetland delineation. The offsite determination will identify waters of this state that are subject to regulation and authorization requirements of the Removal-Fill Law (ORS 196.800 to 196.990) that may be needed prior to disturbance or development of the point of diversion.
- 2) **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 the Oregon Department of Fish and Wildlife's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. Prior to development of the point of diversion, the permittee shall submit, to the Oregon Water Resources Department, a Riparian Mitigation Plan approved in writing by ODFW unless ODFW provides documentation that riparian mitigation is not necessary. The permittee shall maintain the riparian area for the life of the permit and subsequent certificate per the approved Riparian Mitigation Plan. If ODFW determines the riparian area is not being maintained, and is unsuccessful in working with the water user to fulfill the obligation, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the mitigation is sufficient. The permittee is hereby directed to contact the local ODFW Fish Biologist prior to development of the point of diversion.
- 3) **In-Water Work:** To protect beneficial uses, the Oregon Department of Fish and Wildlife (ODFW) recommends any in-water work related to development of the proposed use be conducted during **July 1 – September 15** unless an alternate time period is approved by ODFW.
- 4) **Pond construction:** Permittee must construct the pond off channel.
- 5) **Pond releases:** Permittee shall not release polluted off-channel stored water into waters of the state unless under emergency situations. Permittee shall treat released water to comply with OAR 340-041 and ensure that water-quality standards are not violated by releases from storage.
- 6) **Water Quality and Prohibited Activities:** The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water-quality standards. Permittee may not cause pollution of any waters of the state, or place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means, per ORS 468B.025(1). If the Department of Environmental Quality determines that

pollution of waters of the state is occurring, DEQ shall notify OWRD of the violation and the water right may be restricted if the permittee fails to implement corrective actions as directed by the Department of Environmental Quality.

- 7) **Agricultural Water Quality Management Area Rules:** Permittee must comply with basin-specific Agricultural Water Quality Management Area Rules in OAR 603-095. Livestock management and cropping must protect riparian areas on the property, allowing site capable vegetation along streams to establish and grow to provide the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff. Active management of livestock and/or a livestock exclusion fence is needed to protect riparian areas and provide the required functions.
- 8) The applicant shall contact DEQ (541-686-7930) to determine if a 1200 C permit is required for construction.
- 9) The applicant will need to contact the U.S. Army Corps of Engineers for confirmation that Removal/Fill regulatory requirements are met for new impoundments. Contact the USACE by email at PortlandRegulatory@usace.army.mil or by phone 503-808-4373.
- 10) **Site Specific Condition:** Runoff may be collected only during December through March each year **and** only when the Williams Cr @Williams gage (https://apps.wrd.state.or.us/apps/sw/hydro_near_real_time/display_hydro_graph.aspx?station_nbr=14368300) is recording at least 110 cfs (the biological flow target). An 8-inch gated outlet pipe will be installed in the dam of the reservoir to allow live flow to pass through the reservoir outside the water storage season and days during the fill period when the gage is not reading at least 110 cfs. The permittee shall verify that 110 cfs is being met at the gage prior to filling the reservoir by recording the dates and associated daily flow while the reservoir is being filled and provide those records annually to and upon request by OWRD and/or ODFW. If the flow data is not available online, the permittee shall monitor the staff gage in Williams Creek every third day while filling the reservoir. If the Williams Cr @Williams gage becomes temporarily inoperable, the permittee shall contact OWRD prior to filling the reservoir and request a "miscellaneous reading" be made by OWRD staff, when available, in order to gain authorization to fill the reservoir. If the Williams Cr @Williams gage is discontinued and OWRD is unable to perform a miscellaneous reading, the permittee shall contact ODFW immediately upon discovering the station has been discontinued to assess alternative options for determining flows in Williams Creek.

ODFW Signature: _____

Print Name: Danette Faucera _____

ODFW Title: Water Policy Coordinator _____ Date: 9/17/21 _____

NOTE: This completed form must be returned to the applicant.