

MEMORANDUM

TO: Water Resources Commission

FROM: Dwight French, WRAD Administrator DATE: August 24, 2005

SUBJECT: Port of Tillamook Bay - Comments received from ODFW

This morning I received the comments (included) from Ron Rehn, ODFW/Tillamook, regarding application R-86378. They commented, as expected, on our Division 33 Comment form.

This memo explains what the Department would propose to do with these comments.

Areas one and two of the form provide the authority for placing conditions or limitations on a proposed permit per our Division 33 rules.

In area three of the form ODFW recommends conditions "fishself; riparian & wq" be placed on a proposed permit to mitigate impacts to essential habitat. These are code words for conditions that we have previously prepared with ODFW for their use. The exact wording is provided below. **As a result of this comment form, Department staff would include these three conditions in the draft permit that goes out with the Proposed Final Order.**

Area four confirms that if we don't include the recommended conditions it would harm the fish species.

Area five is not applicable in this case because ODFW did not recommend denial. However, we propose to include the information provided in area five in the findings of the Proposed Final Order as a courtesy to the applicant and to ODFW.

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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.

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 Chapter 635, Division 415, Section 030 adopted November 13, 1991 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.

Chris Knutsen
Form 2 - Lower Columbia/Statewide

ODFW 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.

Date: 7/26/05 Please return to WRD before August 29, 2005. Application #: R-86378

Comments submitted 8-23-05

Applicant's Name: JACK CRIDER PORT OF TILLAMOOK BAY

1) Will the proposed use occur in an area that may affect the essential habitat of sensitive, threatened, or endangered fish species?
[690-33-330(1)] Coastal Coho - Candidate for Threatened

NO / YES Species: Coastal cutthroat Status: Sensitive Threatened, Endangered

IF ANSWER TO QUESTION (1) IS YES, CONTINUE ON THIS PAGE TO QUESTION (2),
IF ANSWER IS NO, FILL OUT PUBLIC INTEREST REVIEW SHEET (PAGE 2)

What stage or value is at risk (circle all that apply): Spawning, Incubation, Rearing, Passage, Habitat Value

2) Will the proposed use result in a LOSS in the essential habitat of THREATENED OR ENDANGERED SPECIES or a NET LOSS in the habitat of a SENSITIVE SPECIES?

NO YES

- A) Standard of NET LOSS applies to sensitive species statewide. [690-33-330(2)(a)]
- B) Standard of LOSS applies to T or E species outside the Columbia Basin. [690-33-330(2)(b)]

3) Can conditions be applied to mitigate the impact to the essential habitat of a S, T or E species?
NO (if no go to 4) YES [690-33-330(3)]

Which conditions are recommended? fish self; riparian & wq

(Try to select conditions from the Menu of Conditions)

4) If conditions cannot be identified to offset impacts to the essential habitat of S, T or E species, would the proposed use harm the species?

NO / YES [690-33-330(4)]

If YES, please explain: The loss of available habitat in Rappah Cr. upstream of Dam site.
The loss of natural instream flows in Rappah Cr. downstream of Dam site
There is a risk if the Trask River point of diversion is not screened properly

5) If WRD determines that it is in the public's interest to approve a permit even if the impact cannot be mitigated what fish screening, bypass or other conditions should be included in the permit?

The applicant shall obtain a Fish Passage Waiver from ODFW.
All pumps/diversions shall meet NOAA and ODFW screening standards.

ODFW Representative signature: [Signature] Date: 8-23-05

WRD Contact: Caseworker: Anita Huffman, Water Rights Division
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