OREGON DEPARTMENT OF FISH AND WILDLIFE

Fish Passage EXEMPTION Application

- Use this form if a waiver has already been granted for the artificial obstruction for which an Exemption is being requested, fish passage mitigation has already been provided for the artificial obstruction, or if there would be no appreciable benefit for native migratory fish if passage were provided at the artificial obstruction.
- Use the "Fish Passage WAIVER Application" if providing fish passage at the artificial obstruction would benefit native migratory fish.
- If you unlock and re-lock this Form, information already entered may be lost in certain versions of MS Word.

APPLICANT INFORMATION
The Applicant must be the owner or operator of the artificial obstruction for which an Exemption is sought.

ORGANIZATION/APPLICANT: Oregon Department of Transportation
CONTACT: Daniel Ohm
ADDRESS: 455 Airport Rd SE
CITY: Salem
PHONE: 503-798-5818
FAX: N/A
E-MAIL ADDRESS: Daniel.k.ohrm@odot.state.or.us

SIGNATURE: ___________________________ DATE: 9/21/2020

OWNER (if different than Applicant): N/A
CONTACT: 
ADDRESS: 
CITY: 
PHONE: 
FAX: 
E-MAIL ADDRESS: 

SIGNATURE: ___________________________ DATE: 

Signature indicates that you understand and do not dispute this request.

APPLICATION COMPLETED BY (if different than Applicant): N/A
TITLE: 
ORGANIZATION: 
ADDRESS: 
CITY: 
PHONE: 
FAX: 
E-MAIL ADDRESS: 

SIGNATURE: ___________________________ DATE: 

To Be Completed by ODFW Fish Passage Coordinator
APPLICATION #: 
DATE RECEIVED: 

FILE NAME: 

APPROVED ☐ SIGNATURE: ___________ DATE: ___________ 
DENIED ☐ TITLE: 

Fish Passage Exemption Application
Revised 11/13/15
ARTIFICIAL OBSTRUCTION (for which an Exemption is being requested)

1. TYPE OF ARTIFICIAL OBSTRUCTION:
   - Dam
   - Culvert/Bridge
   - Tidegate
   - Other (describe):

2. PLEASE PROVIDE A BACKGROUND AND DESCRIPTION OF THE PROPOSED ACTION TRIGGERING THE NEED TO ADDRESS FISH PASSAGE:

   The purpose of this project is to improve safety at the intersections of OR99W with Clow Corner Rd and Orrs Corner Rd. The OR99W at Clow Corner Rd intersection has been on the Safety Priority Index System list regularly over the past two decades, most recently with 27 total crashes from 2012 to 2016 (1 fatal, 2 severe injury, 17 other injury, and 7 property damage only). Crash types are primarily angle (T-bone) or turn movement related (11 angle, 11 turning, 3 rear-end, 2 run off the road). This project proposes to construct a modern roundabout at this intersection in order to reduce the number and severity of crashes. The roundabout may include a freight bypass lane if warranted. In addition, this project will convert the OR99W at Orrs Corner Rd intersection to right-in / right-out operation. This will improve safety at the intersection and also discourage highway users from bypassing the proposed roundabout at Clow Corner.

   In order to construct the roundabout at OR99W and Clow Corner Rd, two culverts carrying an unnamed tributary of Hayden Slough will need to be extended, thus triggering fish passage at each extension. This exemption request pertains to the downstream-most culvert extension, located on OR99W at MP 60.13. Fish passage will not be provided at this location because there would be no appreciable benefit to native migratory fish. No native migratory fish are currently present due multiple barriers downstream, one of which is considered a full barrier.

3. PASSAGE WILL NOT BE PROVIDED FOR THE FOLLOWING REASON(S):

   - Already Mitigated**
   - Already Granted a Waiver**
   - No Appreciable Benefit for Native Migratory Fish

   ** Attach supporting documentation, a description of mitigation, and past ODFW approvals. The description of mitigation should include information detailed in the "Fish Passage WAIVER Application".

4. DATE THE TRIGGER ACTION IS SCHEDULED TO BEGIN (a minimum of one month should be planned for the exemption process after ODFW receives your application; requests that require detailed ODFW review or must go before the Commission will take longer): 7/1/2023 (IWWP is 7/1 – 10/15)

5. LOCATION
   - COUNTY: Polk
   - ROAD CROSSING (if applicable): OR99W
   - RIVER/STREAM: Unnamed
   - TRIBUTARY OF: Hayden Slough
   - BASIN: 170900070105 – Willamette Basin
   - COORDINATES*: Longitude: 123.228609°W          Latitude: 44.895902°N
   - DFI NO.: D029514

Fish Passage Exemption Application
Revised 11/13/15
6. STREAM DESCRIPTION

**6A. BARRIER TABLE** (please provide the following information for barriers, which will help determine the benefit of providing passage at the Artificial Obstruction; indicate measurement units if applicable):

<table>
<thead>
<tr>
<th>Locations</th>
<th>Downstream</th>
<th>Upstream</th>
<th>example</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>C/N 2 1 AO</td>
<td>1 2 E</td>
<td></td>
</tr>
<tr>
<td>Type</td>
<td>C C C C C</td>
<td>C C C C C</td>
<td></td>
</tr>
<tr>
<td>Length</td>
<td>110 35 35</td>
<td>163 86 67 80</td>
<td></td>
</tr>
<tr>
<td>Distance</td>
<td>0.58 0.84</td>
<td>0.39 1.96</td>
<td>492 1758 216</td>
</tr>
<tr>
<td>Level</td>
<td>1 5 4 1 1,3</td>
<td>1 1,3</td>
<td>5</td>
</tr>
</tbody>
</table>

**Example:**

- **Type** = C (culvert/bridge), D (dam), T (tide gate), N (natural; describe below), O (other; describe below)
- **Length** = length of the barrier in the stream (e.g., culvert's length, dam's width/footprint)
- **Distance** = distance from the Artificial Obstruction (to closest point of other barriers)
- **Level** = amount of passage at the barrier using the following codes:
  - 5 - barrier to all native migratory fish
  - 4 - barrier to some native migratory fish adults and/or species
  - 3 - barrier to some native migratory fish adults and/or species for only part of migration period
  - 2 - barrier to all native migratory fish juveniles
  - 1 - barrier to some native migratory fish juveniles and/or for only part of migration period

**LOCATIONS:**

- **AO** = the existing or proposed Artificial Obstruction
- **1,2** = other barriers in the same stream as the Artificial Obstruction
- **3** = downstream barrier outside the immediate stream in which the Artificial Obstruction is located (only needed if C/N is a confluence rather than a complete natural barrier)
- **E** = end of historic native migratory fish use, including all tributaries (i.e., potential range without any artificial barriers in place)
- **C/N** = first downstream confluence or complete natural barrier, whichever comes first

**NOTE:** The example indicates that there is culvert which is 80 feet long, is located 1,200 feet from the Artificial Obstruction in question, and is a complete fish passage barrier.

**PLEASE PROVIDE ADDITIONAL DESCRIPTIONS FOR THOSE BARRIERS INCLUDED IN THE BARRIER TABLE OR FOR OTHER BARRIERS AFFECTING NATIVE MIGRATORY FISH MOVEMENT TO OR FROM THE ARTIFICIAL OBSTRUCTION:**

The barriers included in the table were those that were able to be accessed via landowner agreement and are most pertinent to determining benefit to native migratory fish of providing passage at the subject culvert.

Downstream Barrier 1 is a farm pond with a concrete weir and weir board mechanism. The weir itself is not passable by any NMF. The weir is high enough that at some flows, the pond overflows around the weir mechanism, primarily via sheetflow. It is possible that limited NMF could traverse the overflow area. Downstream Barrier 2 is a farm pond with a perched culvert outlet. The perch is approximately 4 ft tall and is a complete barrier to NMF. No overflow channel is present. Downstream Barrier 3 is a set of twin culverts under a County Rd, carrying Hayden Slough. These culverts are typically passable, but do not meet passage criteria and may present a partial barrier to juveniles during high and low flows.

Upstream Barrier 1 is a corrugated plastic culvert that is also proposed for replacement under this project, and is described in a separate exemption request. This culvert may be a velocity barrier during some flows, but is typically passable. Upstream Barrier 2 is a set of twin culverts owned

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1 End of current fish use is listed. End of historic fish use is undefined due to the altered nature of the stream reach.
and maintained by the County. These culverts are partially buried and are a partial barrier to NMF at some flows, but are oftentimes passable. The end of current fish use is located approximately 50 ft upstream of Upstream Barrier 2, where the channel disappears due to filling and grading of the property for agricultural use.

6B. SUMMARY TABLE (please provide the following information relative to the Artificial Obstruction, which will help determine the benefit of providing passage at it):

<table>
<thead>
<tr>
<th></th>
<th>DOWNSTREAM</th>
<th>UPSTREAM</th>
</tr>
</thead>
<tbody>
<tr>
<td>NMF Species Present Currently</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>NMF Species Present Historically</td>
<td>Yes</td>
<td>Assumed</td>
</tr>
<tr>
<td>Habitat Quality</td>
<td>Poor</td>
<td>Poor</td>
</tr>
<tr>
<td>Flows</td>
<td>Intermittent to perennial</td>
<td>Intermittent</td>
</tr>
<tr>
<td>Water Quality</td>
<td>Poor</td>
<td>Poor</td>
</tr>
<tr>
<td>Water Right Availability</td>
<td>2 POUs (both Rickreall Community Water Association)</td>
<td>2 POUs (both Rickreall Community Water Association)</td>
</tr>
<tr>
<td>Land Use/Zoning</td>
<td>EFU</td>
<td>EFU</td>
</tr>
</tbody>
</table>

NMF = native migratory fish

Please provide additional details regarding the information provided in the Summary Table (such as species listed under the state or federal ESA and descriptions of the stream channel and riparian habitat):

This unnamed tributary of Hayden Slough is a historic channel that has been heavily modified by agricultural activity. For much of its length the stream has been ditched to maintain water flow, and numerous artificial obstructions are present. Water quality in this reach is expected to be poor due to sediment and chemical runoff from agricultural land uses. Temperatures become very hot during the summer months. Much of the stream has no riparian area of canopy cover, but certain portions do have a tree line that is maintained by property owners. The uppermost extent of the stream is intermittent, drying up completely during late summer. Downstream of the triggering action, the stream is intermittent and becomes perennial further downstream. NMF are assumed to be historically present through this reach, but the downstream full barrier prevents current NMF use.

6C. PROVIDE THE SOURCE FOR INFORMATION CONTAINED IN THE BARRIER AND SUMMARY TABLES:

Information in the barrier table was obtained from aerial photos and site visits. Rights-of-entry and landowner permission were obtained in order to gain physical access to all of the barriers listed in the table, as well as to the end of fish use. The many other artificial obstructions present in the stream reach – and displayed on the attached maps – were not able to be accessed in-person due to land ownership. Instead, these barriers were identified using aerial imagery alone.

The information in the summary table was obtained from communication with ODFW Assistant District Biologist Alex Farrand (email communication attached), personal observation, Polk County land use maps, and OWRD water rights maps.
• Please attach one or more maps indicating the Artificial Obstruction, the stream on which it is located, and other barriers in the stream. A 7.5 minute USGS quad map is sufficient.
  ☑ -- Map(s) included

PHOTOS
• Please include photographs of the following (JPG files are preferred):
  ☑ -- Artificial Obstruction
  ☑ -- up- and downstream habitat at the Artificial Obstruction
  ☑ -- other barriers up- and downstream of the Artificial Obstruction

Please submit this application electronically to the ODFW Fish Passage Coordinator at greg.d.apke@state.or.us and send one signed original paper copy of the application to the ODFW Fish Passage Coordinator at 4034 Fairview Industrial Dr. SE, Salem, OR 97302.
For ODFW Use Only

PRELIMINARY BENEFIT ANALYSIS

1. The information contained in this application is accurate:  
   □ True  □ False

2. State or federal ESA-listed fish species can NOT currently access the site:  
   □ True  □ False

3. One or more of the following situations exist for the site (check those that apply):  
   □ True  □ False
   a. a complete downstream barrier (artificial or natural) prevents access to the site and there are no resident native migratory fish which currently have access to the site:  
   □ True  □ False
   b. a complete downstream barrier (artificial or natural) prevents access to the site and is within 100 feet of the site:  
   □ True  □ False
   c. total distance of habitat (including tributaries) upstream of the site to another complete barrier (artificial or natural) or up to the end of historic fish use is less than 100 feet in length:  
   □ True  □ False
   d. all habitat upstream of the site will not be utilized by any native migratory fish because of its poor or degraded condition:  
   □ True  □ False

4. The artificial obstruction (absent passage) will NOT preclude access to any "Habitat Category I" (as defined in OAR 635-415-0025(1)) habitat for native migratory fish:  
   □ True  □ False

5. Based on distances with which you concur in 6A. BARRIER TABLE, one of the following is true:  
   □ True  □ False
   a. the distance "E" is less than 1 mile from the artificial obstruction, or  
   □ True  □ False
   b. if "C/N" is a complete natural barrier, the distance to it is less than 1 mile from the artificial obstruction

   • If all answers are "True", this suffices as the Final Benefit Analysis when filled in below.
   • If any answers are "False" or you wish to provide further information, please provide a full Benefit Analysis and do not fill in below.
   • Electronically return this form and a full Benefit Analysis, if needed, to the Fish Passage Coordinator when completed.

   By filling in the following information, I determine that under the current conditions there is "no appreciable benefit" for native migratory fish by providing passage at this Artificial Obstruction.

   NAME:
   TITLE:
   ODFW OFFICE:
   DATE:
Oregon Department of Transportation

OR99W: Orrs Corner - Clow Corner Rd

Federal Aid-Number: S091(097)  ODOT Key Number: 21374  County: Polk  City: N/A

Legend

- Triggering Action
- Artificial Obstructions
- Artificial Obstruction (Confirmed Full Barrier)
Subject Culvert
Upstream
Upstream Barrier 2
Upstream - high flow
Upstream Barrier 1
Upstream
Downstream Barrier 1
Weir in foreground, Overflow in background
Hi Dan,

We have no information on current or historic NMF presence/absence the un-named creek/ditch in question. I see several artificial barriers downstream so I would venture to say there is likely no NMF present currently. Historically, considering its location and basin topography, and based on experiences from other similar systems, I would see no reason why some NMF would not have used it as seasonal refuge during high flows. I also agree that there is very little habitat, if any, upstream, and that pursuing an exemption is a good option.

Hope this helps,

Alex Farrand
Fish Biologist - ODFW
South Willamette District Office
7118 NE Vandenberg Ave.
Corvallis, OR 97330
Ph: 541-757-5239
fax: 541-757-4252

Hi Elise,

I am scoping a project that would upgrade the OR99W & Clow Corner Rd intersection to a roundabout. The site is located at OR99W MP 60. The project would need to lengthen two culverts, one of OR99W and one on Clow Corner Rd. Do you have information on current and historic NMF presence/absence? Our database says that there are no NMF present currently. If NMF were present historically, it may be appropriate to pursue an exemption since there is little upstream habitat and it is of very poor quality (i.e. agricultural ditch). Let me know what you think.

Thanks!

Daniel Ohrn
ODOT Region 2 Environmental
Environmental Project Manager & Biologist
Desk: 503-986-2690
Cell: 503-798-5818