



Oregon

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September 1, 2023

Ryan Beckley
Winchester Water Control District
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RE: ODFW In-water Work Extension Request Authorization --- Winchester Dam Repair Project --- North Umpqua River

Mr. Beckley,

The Winchester Water Control District (WWCD) submitted an In-water Work Window Extension Request (Request) to the Oregon Department of Fish and Wildlife (ODFW) on August 30, 2023, associated with the Winchester Dam Repair Project. ODFW originally authorized a temporary block to fish passage for this project from August 7-28 via FPA-17-0138, issued on December 29, 2022. The temporary block for this period was authorized to complete necessary dam safety work and based on ODFW's assessment that impacts to native migratory fish (NMF) species would be minimal during this period if terms and conditions of this and other permits were adhered to. ODFW did not authorize a temporary block of fish passage to occur after this date because historical fish passage data indicated the risk of harm to fishery resources would increase substantially for native spring Chinook salmon, summer steelhead trout, and ESA listed Coho salmon, among other native species.

Due to the construction not meeting the schedule, you are now in a situation where you are negatively affecting NMF populations. Migration is being prevented and/or delayed as passage is not sufficient through the spillway gates. From August 28, 2023 through today (September 1, 2023), ODFW staff have spent approximately 120 minutes observing fish attempting to migrate through the spillway gates, and we have documented in excess of 100 passage attempts during that time. We did not observe any fish successfully moving through the spillway gates. Videos you provided on August 31, 2023 do not show clear evidence of successful fish passage through the spillway gates.

In addition to the lack of adequate fish passage, the delay and repeated burst swimming events will result in increased stress and energy expenditure, both of which are known to impact spawning success. Adult salmonids are currently wasting vital energy reserves and are becoming further stressed as they attempt to navigate the spillway. ODFW also believes there is high potential for physical injury as a result of high-speed contact with the concrete and spillway structures at the dam and the bedrock situated immediately below the spillway structure during passage attempts. Many of the spring Chinook currently delayed below the dam only have two weeks to migrate as far upstream as Soda Springs to spawn. The upstream migration of these fish is delayed as a direct result of your project not being completed on time. In addition, summer steelhead will be below

critical abundance again this year, a level below which ODFW has significant concerns about the long-term viability of a population. ODFW has closed the North Umpqua River to recreational angling and released previously collected hatchery broodstock in efforts to conserve the population. Your project delay is now negatively affecting this population.

ODFW has reviewed the project submittal associated with this extension request. ODFW finds that many of the statements in the request relating to the impact on native migratory fish are deficient. ODFW conditionally approves the extension request (*see attached authorization for specific terms and conditions*) through 5:00 pm on September 6, 2023. This approval is being issued solely to ensure that there is no further harm to the resource as a result of this project by attaching terms and conditions needed to prevent such harm. Any further request for an extension will not be granted absent a clear dam safety issue as noted by Oregon Water Resources Department or another State or Federal Agency with relevant authority.

This In-water Work Extension (IWWE) Authorization does not abrogate previous ODFW authorizations for this project and is subject to the following terms and conditions:

Terms and Conditions

- 1) The refill shall be conducted at a rate not to exceed 1”/hr. A member of the WWCD shall be onsite during normal business hours for the duration of the refill to coordinate with ODFW staff on the rate of refill. Monday, September 4, is a state holiday and is not “normal business hours.” During the refill period, ODFW will advise as to whether the rate can be increased without negative consequences downstream to shorten the refill time. WWCD shall comply with ODFW’s requests to increase or decrease the refill rate. Once refill is initiated, refill must be continuous or stay static, water level may not be lowered again. This is important to avoid stranding and potential mortality of native migratory fish (particularly lamprey) above the dam.
- 2) WWCD shall provide upstream fish passage during this period. As indicated above, fish passage is not currently adequate, and this must be remedied immediately.
- 3) Materials used to temporarily fill waters of this state shall be permanently removed from waters of the state and prior to completion of the project by 11:59 PM on September 3, 2023. This includes but is not limited to all temporary fill used for the construction road above dam and temporary boulders placed below the dam. As outlined in your IWWE, *“Temporary work surfacing, aggregate, and boulders will be removed and hauled off-site and then the isolation measures (plastic sheeting, sandbags, supersacks) will be removed. Demobilization of the temporary in-water components is expected to take place 9/1-9/3”*. Failure to remove these materials may result in an impediment to fish passage.
- 4) The temporary bridge access structure and all materials used in association with this structure shall be permanently removed from waters of the state. As outlined in your IWWE, *“bridge removal is expected to take place by 9/4”*.
- 5) Consistent with OR-RSA 27400 T&C #7, all fish must be salvaged until refill of the project area is complete. During the entire rewatering period, you must have sufficient fish rescue salvage crews ready to salvage any affected fish throughout the entire project area. During rewatering, there may be additional salvage required below the dam in areas where fish may become stranded as the reservoir is refilled or as temporary fill and construction materials are removed.

- 6) The following repairs to dam and fish ladder are still required and shall be completed by contractor prior to completion of the project. Failure to not complete these items these materials may result in an impediment to fish passage. These items include:
 - Replace auxiliary flow outlet grate at bottom of south wall in “middle” pool of the three with auxiliary flow outlets.
 - Smooth any remaining rough surfaces in the fish trap and add additional anchors in spots as previously communicated by ODFW.
 - Removal of any exposed rebar and/or bolts that may impact, abrade, or injure fish. Two areas previously identified included:
 - a. one located in the SW corner of the low entrance pool there were 2 bolts sticking out that should be cut flush and ground smooth, and
 - b. one located in the upper SE corner of the trap there is one bolt that should be cut and ground smooth.
 - ODFW requires the exposed rebar located on the face of the dam to be cut flush to the yellow nuts (or as short as they can be according to the inspection requirements) and shall be capped or epoxied to avoid fish injury.
- 7) The WWCD shall Notify ODFW District Fish Biologist (Greg Huchko Greg.F.Huchko@odfw.oregon.gov) or his designee when full refill has been achieved to assure that rewatering is completed.

This correspondence and the attached In-water Work Window Extension Authorization fulfills Oregon fish passage statutory requirements administered by the Oregon Department of Fish and Wildlife. ODFW has not completed an analysis as to whether any element of the current work constitutes a construction trigger under OAR 635-412-0005. This authorization may not satisfy any other federal, state, or local laws, rules, or regulations, including but not limited to State or Federal Endangered Species Acts, any applicable water rights conditions, approvals, or other certificates administered by regulatory authorities. It is the WWCD’s sole responsibility to seek and comply with all necessary and required local, county, state, and federal approvals and permits. This Authorization in no way purports or authorizes take of a state or federally-listed species.

Please continue to coordinate with Greg Huchko Greg.F.Huchko@odfw.oregon.gov (ODFW Umpqua Watershed District Fish Biologist) or his designee as the project advances towards project completion. The WWCD may similarly contact me at 503-947-6228 or by email at greg.d.apke@odfw.oregon.gov with questions regarding the content or the provisions of this Fish Passage Authorization.

Sincerely,



Greg Apke
ODFW Fish Passage and Screens Program Manager, *acting*

Enclosure Cc:
Greg Huchko, ODFW Umpqua Watershed District Fish Biologist

Evan Leonetti, ODFW Umpqua Watershed Assistant District Fish Biologist
Fabian Carr, ODFW Umpqua Watershed Broodstock Collection/Fish Survey
Sara Gregory, ODFW Umpqua Watershed Manager
Chris Kern, ODFW West Region Manager
Anika Marriott, Oregon Department of Justice
Holly Huchko, ODFW ESA Program Specialist
Shaun Clements, ODFW Fish Division Deputy Administrator
Debbie Colbert, ODFW Deputy Director for Fish and Wildlife
Kate Wells, NOAA Fisheries Acting Branch Chief
Melanie O'Meara, US Army Corps of Engineers
Lauren Stebbins, Oregon Department of State Lands
ODFW Fish Passage Project Files