

## Agenda Item Summary

### BACKGROUND

The fish passage statutes adopted in 2001 authorize the Oregon Fish and Wildlife Commission (Commission) to waive the requirements to install fish passage at artificial obstructions. The Commission can grant a "waiver" if an alternative to fish passage is provided that results in a net benefit to native migratory fish. The City of Portland's Water Bureau (City) is requesting a waiver for fish passage for the City of Portland Municipal Water Supply system located in the Bull Run River Watershed. This municipal water supply system includes four artificial obstructions (Bull Run Dam 1, Bull Run Dam 2, the Headworks Diversion Dam, and a rock weir) created by the water supply system owned and managed by the City in Multnomah County, Oregon.

Oregon Revised Statutes (ORS) 509.585(7)(a) authorizes the Commission to waive the fish passage requirements of ORS 509.585(1)(b) in exchange for agreed-upon alternatives to fish passage that provide a net benefit to native migratory fish. The City requests a waiver from fish passage requirements for the municipal water supply system located in the Bull Run Watershed located near Sandy, Oregon.

### PUBLIC INVOLVEMENT

- This request was presented to the Fish Passage Task Force at a special April 2, 2010 meeting in Portland. The Task Force is composed of nine members. Water users, fishing/conservation interests, and the public-at-large are each represented by three members. Task Force meetings are open to the public. The Task Force recommended the approval of this fish passage waiver request.
- A 30-day public comment period was initiated on March 24, 2010 through a news release which was distributed to statewide media, the ODFW electronic mail list which contains about 800 interested members of the public and local watershed councils. Comments received during the 30-day public comment period have been compiled and will be presented to the Commission at the June, 2010 meeting, at which the public will also be able to testify.

### ISSUE 1

#### **WHETHER TO APPROVE A FISH PASSAGE WAIVER FOR THE CITY OF PORTLAND'S MUNICIPAL WATER SUPPLY SYSTEM AT THE BULL RUN RIVER NEAR SANDY, OREGON IN MULTNOMAH COUNTY**

### ANALYSIS

A description of the fish passage waiver site on the Bull Run River and the multiple mitigation actions and corresponding sites in the Sandy River basin are contained in the attached waiver application for Bull Run Water Supply (Attachment 2). ODFW's native migratory fish net benefit analysis is also included as Attachment 3, as is the draft agreement between ODFW and the City regarding the fish passage waiver and subsequent mitigation (Attachment 4). Public comments received during the 30-day public comment period are also attached (Attachment 5).

The net benefit analysis contains information required by Fish Passage State Statutes (ORS 509.585 (7)(b)) at the mitigation sites. Staff concurs with the net benefit analysis which concludes that the 49 mitigation actions in the Sandy River Basin will provide a net benefit to native migratory fish over providing passage at City's municipal water supply system diversion structures. Thus, a waiver from fish passage

requirements is appropriate for City of Portland's Municipal Water Supply System in the Bull Run Watershed.

**OPTIONS**

1. Approve the City of Portland's request for a fish passage waiver at the City's Municipal Water Supply System located in the Bull Run River and authorize the Department to enter into an agreement with the City of Portland to this effect.
2. Deny the City of Portland's request for fish passage waiver at Bull Run Water Supply.

**STAFF  
RECOMMENDATION**

1. Staff recommends the Commission approve the City's fish passage waiver request by having the Chair enter into an agreement with the City for a fish passage waiver for the City's Municipal Water Supply System located in the Bull Run River in exchange for the benefits to native fish as described in the city's Habitat Conservation Plan.

<b>DRAFT MOTION</b>	I move to grant City of Portland a waiver from providing fish passage at the Bull Run River in exchange for the proposed mitigation in the Sandy River Basin and authorize the Oregon Department of Fish and Wildlife to enter into an agreement with the City to this effect.
<b>EFFECTIVE DATE</b>	Upon signature.