

Public Correspondence

**Public correspondence received
as of May 21, 2010**



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1201 NE Lloyd Boulevard, Suite 1100
PORTLAND, OREGON 97232-1274

Refer to NMFS No.:
2008/03771

April 13, 2010

Greg Apke
Oregon Department of Fish and Wildlife
Fish Passage Program Leader
3406 NE Cherry Ave. NE
Salem, Oregon 97303

Re: Portland Water Bureau's Fish Passage Waiver Application for the Bull Run Water Supply Habitat Conservation Plan

Dear Mr. Apke:

The National Marine Fisheries Service (NMFS) commends the Oregon Department of Fish and Wildlife (ODFW) on their statewide efforts to provide passage for fish past anthropogenic barriers. NMFS also realizes that at some barriers it is not reasonable to provide passage for many different reasons. Thus, the need for a waiver process to allow for some projects to not provide passage and instead provide mitigation to offset those impacts. It is NMFS' understanding that the City of Portland (City) has applied for such a waiver for their water supply system in the Bull Run River.

NMFS worked extensively with the City to develop a Habitat Conservation Plan (HCP) for the Bull Run Water Supply System. Along with the Sandy River Partners, NMFS participated for 10 years in the technical review of all fisheries and habitat information. That input is evidenced in the final HCP that was issued in 2009 (refer to NMFS No.: 2008/03771). Passage above the dam was not part of the HCP, rather the City proposed extensive habitat conservation measures throughout the entire Sandy River basin to offset impacts to anadromous salmonids that are blocked from upstream areas in the Bull Run River.

In addition to the habitat conservation measures, Portland is committing to many monitoring and reporting tasks as part of the HCP and the Implementation Agreement that was signed by our agency and the City. The plan also adequately addresses adaptive management needs. Those commitments may be similar to what you would require as part of your fish passage waiver.

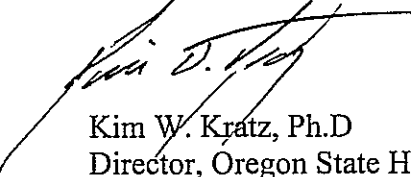
NMFS believes that the HCP is thorough and the science behind the habitat conservation measures is sound. During the long development of the plan, there was a fisheries technical team that discussed all data and assumptions. Providing fish passage in the Bull Run watershed was thoroughly considered and NMFS, along with the other Sandy River Partners, felt that the HCP commitments will do more for Endangered Species Act-listed and native migratory fish.

Therefore, NMFS recommends to the ODFW and the ODFW Fish and Wildlife Commission that the fish passage waiver be granted.



If you have questions, feel free to call Ben Meyer, Branch Chief of the Willamette Basin Habitat Branch in the Oregon State Habitat Office at 503.230.5425.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim W. Kratz". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kim W. Kratz, Ph.D
Director, Oregon State Habitat Office
Habitat Conservation Division



April 13, 2010

Greg Apke
ODFW Fish Passage Program Leader
3406 NE Cherry Ave. NE
Salem, OR 97303

Re.: Fish Passage Waiver Request – City of Portland

Dear Mr. Apke,

On behalf of The Freshwater Trust (TFT) (formerly Oregon Trout and The Oregon Water Trust), I write in support of granting a fish passage waiver related to the City of Portland's Bull Run Water Supply Habitat Conservation Plan (HCP) and related operations in the Bull Run watershed. It is not often the case that we would openly support a waiver from a statute that is highly important to native fish protection and recovery, but this is one such occasion.

TFT has been involved as a member of the Sandy River Basin Partners since the collaborative group's inception. As part of this effort, we have been directly engaged for 10 years in scientific assessment creation, restoration strategy formation, and restoration project design and implementation on-the-ground in the Sandy basin. Along with the other Partners, we have worked with the City of Portland in the discussions around and development of the HCP. We feel the plan is thorough and the science is sound. A credible technical committee existed to discuss and examine all issues, including the issue of providing fish passage. TFT feels the City of Portland adequately considered the benefits and options of providing fish passage in the Bull Run. The issue was examined at length in the HCP development process and the Environmental Impact Statement that received full public review.

TFT feels the City of Portland's HCP commitments will create significantly more fish habitat and benefits than just providing fish passage. We believe the City will be doing much more than just mitigating for lost fish passage in the Bull Run. The City's actions, and the related Sandy Basin Restoration Strategy that the Partners have together crafted, are specifically targeted to areas across the Sandy basin that will work to recover ESA-listed fish.

Thank you for considering our comments. TFT feels strongly about the integrity of Oregon's fish passage statute, and in this case, we feel a waiver is consistent with the promotion of the statute's native fish recovery objectives.

Sincerely,

Brett Brownscombe,
Conservation Director

65 SW Yamhill Street, Suite 200
Portland, Oregon 97204
503.222.9091 MAIN OFFICE
www.thefreshwatertrust.org

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Association of Northwest Steelheaders

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April 13, 2010

Greg Apke, Fish Passage Program leader
ODFW

3406 NE Cherry Ave. NE, Salem, OR 97303,

Re.: Fish Passage Waiver for Bull Run Project

The Association of Northwest Steelheaders (ANWS) is one of the Sandy River Basin Partners and has participated for 10 years to help guide Portland for creating their Habitat Conservation Plan. Portland adequately considered the benefits of providing fish passage in the Bull Run. It was discussed in length in the HCP development process and the Environmental Impact Statement that received full public review.

The Association of Northwest Steelheaders support Portland's Bull Run Water Supply Habitat Conservation Plan. We recommended to ODFW and the ODFW Commission that the fish passage waiver be approved. **We do however have one additional request that will enhance native fish protections without any additional cost to Portland.** It only requires Portland's cooperation.

Portland is effectively mitigating for the lack of fish passage in the Bull Run, targeting benefit for wild native fish, and the City's actions are specifically targeted to areas that would benefit ESA-listed fish.

The other action we seek is to simply allow ODFW to site and manage a fish acclimation facility in the Bull Run, below the Portland Hydto projects. This enhancement will create a "black hole" where hatchery salmon & steelhead would return, reducing straying and their impact on wild fish spawning in the main stem and upper reaches of the Sandy River. Depending on specific location, this facility (financed though ODFW with public & private funds) can provide public education and greater recreational opportunity.

Thank you for your consideration of our position.

Sincerely,

Norman E. Ritchie, P.E.
Government Affairs Director