

**Exhibit C**

**Public Correspondence received as of  
November 20, 2014**

## **Greg D Apke**

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**From:** ODFW News  
**Sent:** Tuesday, September 23, 2014 4:11 PM  
**To:** ODFW All Staff  
**Subject:** ODFW seeks comment on Upper and Lower Pony Creek dams fish passage waivers

**Categories:** Important

### **NEWS RELEASE**

Oregon Department of Fish and Wildlife

Contact: Greg Apke (503) 947-6228  
Jessica Sall (503) 947-6023

Sept. 23, 2014

### **ODFW seeks comment on Upper and Lower Pony Creek dams fish passage waivers**

SALEM, Ore. – The Oregon Department of Fish and Wildlife is seeking public comment on a request to waive fish passage requirement for an existing dam on Lower Pony Creek and to amend an existing waiver for a second dam on Upper Pony Creek, both near Coos Bay.

The Coos Bay North Bend Water Board has requested the waivers and has proposed restoring habitat in Matson Creek, a subwatershed of the Catching Slough, to mitigate for the loss of passage on Pony Creek. The Oregon Fish and Wildlife Commission will be asked to approve the waivers at its Dec. 5, 2014 meeting in Salem.

In the meantime, members of the public will have until Oct. 15, 2014 to submit written comments on the two proposed actions, for consideration by the Oregon Fish Passage Task Force. The Task Force will consider comments on these waiver requests at its next meeting Oct. 17 at the ODFW Headquarters in Salem. Members of the public are welcome to attend.

The applicant's plan to structurally retrofit the Lower Pony Creek Dam and amend the existing passage waiver for Upper Pony Creek Dam has triggered a state requirement to consider fish passage. Currently, the existing dams on Pony Creek are complete barriers to the passage of native migratory fish.

The Oregon Fish and Wildlife Commission can waive the passage requirements on Pony Creek if the restoration in Matson Creek would provide more benefit to native migratory fish. The applicant has proposed restoring Matson Creek which will provide year-round rearing, foraging, and refuge habitat for native migratory fish. ODFW has made an initial determination that the proposed restoration activities in Matson Creek would result in a net benefit to migratory fish by providing restored habitat conditions for coastal cutthroat trout, coho, Chinook, chum, winter steelhead and lamprey species. Presently, only cutthroat trout reside in Pony Creek.

Copies of the fish passage waiver application, ODFW benefit analysis and proposed waiver agreements can be found on the [ODFW Web site](#).

Members of the public can send written comments to or request additional information from Greg Apke, ODFW Fish Passage Program Coordinator, 4034 Fairview Industrial Dr., Salem, Ore. 97302, e-mail, [Greg.D.Apke@state.or.us](mailto:Greg.D.Apke@state.or.us), or by calling (503) 947-6228.



## City of North Bend

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Post Office Box B • North Bend, OR 97459-0014 • Phone: (541) 756-8500 • FAX: (541) 756-8527

31 July 2014

Mr. Greg Apke, Fish Passage Coordinator  
Oregon Department of Fish and Wildlife - Fish Division  
4034 Fairview Industrial Drive SE  
Salem, OR 97302

Re: Support for Coos Bay - North Bend Water Board Application

Dear Mr. Apke:

The City of North Bend would like to go on the record in support of the Water Board's application for a waiver regarding fish passage in the Lower Pony Creek Dam as well as a modification to the existing MOU concerning fish passage to the Upper Pony Creek Dam.

Pony Creek as it winds its way from the Water Board impoundments to Pony Creek Slough and eventually into Coos Bay, has to traverse a narrow shallow channel, which when combined with mandated water releases for fish, winter rains and high tides result in flooding which impacts a medical clinic, church, state offices, an apartment complex, a number of business as well as flooding a portion of a major east-west four (4) lane road.


When the flooding occurs, it typically results in the City's Police and Fire having to undertake rescue operations to assist persons from their vehicles which are flooded while traveling on paved city streets.

Based on the above, the City of North Bend believes the work proposed by the Water Board as well as the proposed mitigation efforts is in keeping with the intent and spirit of both the law and the mission of ODFW. Additionally the secondary benefit of the actions requested by the Coos Bay - North Bend Water

Mr. Greg Apke  
31 July 2014  
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Board will also provide some flood relief to the citizens and businesses of North Bend located on Pony Creek should the requested waivers be granted.

Sincerely,



Terence E. O'Connor, City Administrator  
City of North Bend

cc: North Bend City Council

## Greg D Apke

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**From:** John Thomas <johnthomas@minetfiber.com>  
**Sent:** Wednesday, September 24, 2014 3:28 PM  
**To:** Greg.D.Apke@state.or.us  
**Subject:** pony creek

ODFW has a lot of trucks with live tanks. Certainly if there is available spawning and rearing habitat in Pony Creek, each fall the State can throw a few pairs of surplus hatchery bound chinook or silvers above the dams and put more fish into the bay over time. Feed some herons, kingfishers, osprey, mergansers and whatever else of the scissorbill population needs a small fish dinner on occasion. The dead spawned salmon will feed the creek and associated critters with marine nutrients and who -knows- what will benefit. I would rather have a little bit of something than all of nothing for any stream. The proposition for Pony Creek has nothing for it and something for another stream. I think something for Pony Creek and all of the remittances for Matson Creek. Just put some adults above the dams each fall. And see what kind of adaptive behaviors come from it.

John Thomas Jr.  
FV Solimar  
246 B st  
Independence, OR 97351

## Greg D Apke

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**From:** kirsten potter <kpottermom@yahoo.com>  
**Sent:** Wednesday, September 24, 2014 9:46 AM  
**To:** Greg.D.Apke@state.or.us  
**Subject:** opposition to Upper and Lower Pony Creek fish passage waivers.

Please place my comments in the official record.

My wife, Kirsten, and I speak in opposition to granting subject waivers. We do not believe letting responsible agencies and groups "buy out" of requirements of Oregon law is in the spirit in which the Oregon citizens pushed through Oregon's fish passage laws.

If ODFW allows the requirement for installing fish passage on Upper and Lower Pony Creek to be avoided [thus continuing the long term 100% closure of upstream habitat to many species] I think ODFW will be sued and will again lose. Another black eye plus more legal costs for us tax payers to carry.

The proposed improvements to the other stream are important and needed. They should be pushed in coming years through volunteer efforts and ODFW efforts. But more important is [a] supporting rather than degrading the law and [b] requiring fish passage be installed in Upper and Lower Pony Creeks - must take top priority.

The big, long term picture is that all three creeks need their fish passage and habitat deficiencies addressed. The long term view is what sound management should implement.

The short term, more politically safe picture is allowing the responsible group to slide off, avoid, side step or otherwise circumvent Oregon law. Short term this makes operations move "lovey-dovey" for fisheries managers as it gets them "off the hook." But it is the wrong decision for the majority of Oregonians.

We ask that decision makers stand firm against, no doubt, strong political pressure. Make the long term choice: Require fish passage and do not waive the requirement for Lower Pony and Upper Pony creeks.

Dave & Kirsten Potter  
3930 Rio Vista Way  
Klamath Falls, OR 97603