

# **Exhibit D**

## **Public Correspondence**

**Public correspondence received as of  
April 6, 2017**

## **Public Meetings**

### Burns, Oregon

Date: November 7, 2016

Attendees: Mike Meeuwig (ODFW – Native Fish Investigations Program – Presenter)  
David Banks (ODFW – District Fish Biologist)  
Ben Ramirez (ODFW – Assistant District Fish Biologist)  
Alan Mauer (US Fish and Wildlife Service)  
Jared Lemos (US Bureau of Land Management)  
Joan Suther

Comments: Concern was raised as to how to ensure that the gate access to Borax Lake remains locked.

General discussion about the need for signage and type of signage.

### Lakeview, Oregon

Date: November 10, 2016

Attendees: Mike Meeuwig (Native Fish Investigations Program – Presenter)  
Justin Miles (ODFW – Assistant District Fish Biologist)  
Levi Old

Comments: What level of protection would be afforded if placed on the Sensitive Species List.

General questions about the biology of the species (e.g., feeding habits, movement patterns).

### Salem, Oregon

Date: November 21, 2016

Attendees: Mike Meeuwig (Native Fish Investigations Program – Presenter)  
Tom Stahl (ODFW)  
Michele Weaver (ODFW)  
Shannon Hurn (ODFW)

Comments: No comments.

## **Write-In Comments**

Dear ODFW and Oregon Fish and Wildlife Commission,

Please do not remove the Borax Lake chub and Foskett Spring speckled dace from Oregon's State List of Threatened and Endangered Species. Even though they are now more protected, these fish still live in isolated populations in arid parts of Oregon, where they remain very vulnerable to human impacts, such as water removal, vehicles, vandalism, introductions of non-native species and cattle grazing (not to mention climate change). They likely play a very important role in their ecosystems, being the only native fish there. I believe it would be a mistake to delist them at this time, because they still need special, extra protection, habitat restoration and monitoring efforts. Delisting creates an impression in the public that the fish are now completely safe, leading to complacency, where further vigilance is needed.

Thank you,

**June Mohler**



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Lakeview Resource Area  
1301 South G Street, Lakeview, OR 97630  
[www.blm.gov/lakeview](http://www.blm.gov/lakeview)

**JAN 24 2017**

In Reply Refer To:  
6843 (ORL000)

Mike Meeuwig  
Program Lead  
Native Fish Investigations Program  
Oregon Department of Fish and Wildlife  
28655 Highway 34  
Corvallis, OR 97333

Dear Mr. Meeuwig:

The purpose of this letter is to demonstrate the Bureau of Land Management's (BLM) support of removing Foskett Speckled Dace (*Rhinichthys osculus* ssp.) from the State List of Threatened and Endangered Species.

The BLM does agree with your determination that the species is not, nor is it likely to become in danger of extinction, due largely to the Cooperative Management Plan (CMP) that is in place, coupled with the additional population that has been established at Dace Spring. The BLM believes that the CMP provides for the long term persistence of the Foskett Speckled Dace through the management and protection of Foskett Speckled Dace habitat at Foskett and Dace springs.

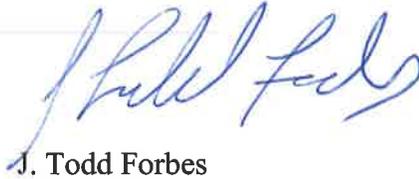
The CMP documents the actions necessary for long term conservation of Foskett Speckled Dace and identifies the roles and responsibilities of the Cooperators in carrying out these actions. Actions identified in the CMP generally include:

- 1) Protect and manage Foskett Speckled Dace habitat
- 2) Monitor the habitat and the Foskett Speckled Dace population
- 3) Enhance the habitat when needed; and
- 4) Implement the emergency contingency plan as needed to address potential threats from the introduction of non-native species, pollutants or other unforeseen threats.

The BLM believes that the CMP more than adequately provides for the long term persistence of the Foskett Speckled Dace. Therefore, we support removing Foskett Speckled Dace from the State List of Threatened and Endangered Species.

Thank you for the opportunity to comment on your proposal. If we can answer any questions, or if you have any concerns, please contact Fish Biologist, Jim Leal at (541) 947-6120.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Todd Forbes". The signature is written in a cursive style and is positioned above the printed name.

J. Todd Forbes  
Field Manager

cc: Scott Lightcap, ORR000



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Bend Field Office  
63095 Deschutes Market Rd.  
Bend, Oregon 97701  
Phone: (541) 383-7146 FAX: (541) 383-7638

Reply To: 8183.0061  
File Name: ODFW Fish delist support letter  
TS Number: 17-230  
Doc Type: Final

January 26, 2017

Michael Finley  
Chair of the Oregon Fish and Wildlife Commission  
Oregon Department of Fish and Wildlife  
1521 Nottingham Circle  
Medford, OR 97504

Dear Mr. Finley:

Thank you for the opportunity to comment on the Oregon Department of Fish and Wildlife's (ODFW) proposal to remove the Borax Lake chub (*Siphateles boraxobius*) and the Foskett speckled dace (*Rhinichthys osculus*) from the Oregon state endangered species list. The U.S. Fish and Wildlife Service (Service) is supportive of both of these proposals.

The Service is currently in the process of drafting a proposed rule to reclassify the Borax Lake chub from endangered to threatened status under the Endangered Species Act (16 U.S.C. 1531 *et seq.*) (ESA) consistent with the recommendation from our Borax Lake Chub 5-Year Review dated July, 2012. We based this recommendation on the significant progress achieved in addressing many of the threats to Borax Lake chub identified at the time of listing. The 5-Year Review assessed our progress in meeting the recovery criteria and made several recommendations to further the conservation of Borax Lake chub.

Service personnel attended the ODFW public meeting held in Burns, Oregon, on November 7, 2016 to learn about the proposal to delist Borax Lake chub from the state list of endangered species. The Service supports your actions and appreciates ODFW's continuing conservation actions in partnership with the U.S. Bureau of Land Management (BLM) and The Nature Conservancy to protect Borax Lake chub and its habitat.

The Service also recommended in our most recent 5-year review of the Foskett speckled dace dated October 26, 2015, removal of the species from the ESA list of threatened species based on meeting the recovery criteria for the species. The recently completed Foskett Speckled Dace Cooperative Management Plan (2015) represents a strategy and commitment by FWS, BLM and ODFW to conserve the species into the foreseeable future. For this reason, the Service also supports the ODFW's proposal to delist the Foskett speckled dace from the state's list of threatened species.

If you have questions or would like to discuss any aspect of this letter, please contact Alan Mauer or myself at (541) 383-7146.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B. Moran', with a long horizontal flourish extending to the right.

Bridget Moran  
Field Supervisor

cc: Mike Meeuwig, ODFW

January 31, 2017

Michael Finley  
Chair of the Oregon Fish and Wildlife Commission  
Oregon Department of Fish and Wildlife  
1521 Nottingham Circle  
Medford, OR 97504

Dear Mr. Finley:

Thank you for the opportunity to comment on the Oregon Department of Fish and Wildlife's proposal to remove the Borax Lake Chub and the Foskett Spring Speckled Dace from the Oregon state endangered species list. At this time The Nature Conservancy does not have specific comments related to Foskett Speckled Dace. However, we do have concerns we would like to share concerning the Borax Lake Chub.

To be direct, we do not feel that the current situation warrants a de-listing of the Borax Lake Chub. While many of the issues and threats identified in past reviews and recovery efforts have been addressed, there are still a few critical threats that remain unresolved and until they are, The Nature Conservancy respectfully requests that the Borax Lake Chub remain on the State List. We can, however, support a down-listing from endangered to threatened on the State List of Threatened and Endangered Species ("State List"; OAR 635-100-0125). The cooperative efforts of the Bureau of Land Management, The Nature Conservancy, US Fish and Wildlife Service, and the Oregon Department of Fish and Wildlife should be commended and celebrated as a largely successful partnership.

We support a down-listing, rather than a de-listing for the following reasons:

- **Recent Drastic Fluctuation in Population:** The population recently fluctuated well below the historic ranges cited as acceptable. Numbers dropped to just over 1000. Such a drastic reduction in size is alarming and represents a clear warning sign of risk as well as unknown factors effecting population dynamics.
- **Observed Potential for Exotic Species Intrusion:** In 2013, ODFW staff observed the presence of an exotic species, presumably a largemouth bass. Follow-up surveys found no evidence that the bass survived, however even a single surviving largemouth bass could have significant impacts on the chub population. Largemouth bass are capable of consuming as much as 5 percent of their body weight daily. That means a 5-pound bass, feeding at maximum efficiency, will consume a quarter pound per day, nearly 2 pounds per week, and over 50 pounds during a normal growing season (March-October). This poses a significant threat to the population of Borax Lake Chubs even if exotic species do not establish a long term or viable population.
- **Continued Presence of Threats Despite Highly Functional Management Partnerships:** Threats are not removed by the existence of management partnerships and agreements; they are simply mitigated. For example, in summer of 2016 surface flows from Borax Lake changed enough to sever connection with an adjacent wetland which serves as important thermal refugia and habitat for Borax Lake Chubs (as cited in the Status Review). Coordinated action by TNC, BLM, USFWS, and ODFW resulted in temporary reconnection through sand bags and channel digging. Future erosion or damage by human activity, whether intentional or accidental remains a threat.
- **Lack of Regulatory Certainty to Prevent Harm from Development:** Regulatory certainty does not exist for potential impacts from development on nearby private land parcels and would decrease with de-listing.

Existing permitting processes consider impacts to Borax Lake Chub because they fall under state and federal protections. Without protected status, permitting can occur through the Oregon Department of Geology and Mineral Industries (DOGAMI) and Energy Facility Siting Council (EFSC), as well as the County, without assured consideration or mitigation of impacts as mitigation and monitoring for project impacts under those permitting processes is optional in the case of an unlisted species.

- Key provisions cited by the Regulatory Review show where DOGAMI “... can suggest conditions under which a permit should be granted” as well as “...an evaluation may require a test well...” [emphasis added].
- EFSC permits energy developments over 35 MW and their process could provide some regulatory oversight for a large geothermal project. However, as outlined in the bullets below, the EFSC process does not guarantee protection of the conditions necessary to sustain the Borax Lake Chub.
  - In the event of a project over 35 MW in size on private lands near the Borax Lake, EFSC would consult with ODFW and decide if the project had potential to harm Category 1 habitat for the Borax Lake Chub.
  - If potential for harm existed, EFSC could ask for a mitigation plan that could include monitoring of impacts.
  - EFSC could decide not to require mitigation or monitoring, in which case potential harm could be left unaddressed.
  - EFSC could require both mitigation and monitoring. Even in that case, if project impacts are severe enough, mitigation actions might not be sufficient to save the habitat conditions needed by the Borax Lake Chub. For example, geothermal researchers have speculated that a change in pressure in the geothermal reservoir could cause the hot water upwelling to change to steam. A catastrophic result for the population of Borax Lake Chub.
- Projects smaller than 35 MW would not be brought to EFSC for review. Most geothermal plants in Nevada are under 35 MW. If geothermal development in Oregon follows a similar pattern, it is likely EFSC would not be involved in permitting or review of impacts for a geothermal project proposed around Borax Lake in which case the review for impacts is uncertain.
- In 2008 and again in 2012, geothermal development was proposed on the small private parcels adjacent to the Borax Lake TNC preserve and BLM property. These projects did not move forward but demonstrate that interest and activity continues.

The US Fish and Wildlife Service is in the process of drafting a proposed rule to reclassify the Borax Lake Chub from endangered to threatened status under the Endangered Species Act consistent with the recommendation from the July 2012 USFWS Borax Lake Chub 5-Year Review. **We request the State of Oregon pursue a similar reclassification from endangered to threatened under the State List.**

We remain committed to the long term conservation of the Borax Lake Chub, and of Borax Lake, which represents the sole habitat for this unique fish. Likewise, we remain committed to a strong working partnership with the federal agencies and the State of Oregon in this endeavor.

Thank you for your attention to this issue. Please don't hesitate to contact me if you have any questions.

Sincerely,



Garth Fuller  
Eastern Oregon Conservation Director  
The Nature Conservancy of Oregon