

Public Comments received from WaterWatch of Oregon (Brian Posewitz) from 2-22-2022 received via email.

As mentioned in my public comments today on the above, attached are suggested changes to the draft definition of “no appreciable benefit.” The reasons for my suggestions are to:

1. Reflect that the issue is the nature of the habitat that would be made available by passage at the site (implied but not explicit).
2. Make the definition simpler and therefore easier to understand and apply (“self-sustaining” and “healthy” seem like difficult words to apply and to call for the kind of expert input others have worried about needing).
3. Make the definition more consistent with the ordinary meaning of “appreciable,” which should include foreseeable access to habitat that would support a life history stage of native migratory fish, without having to assess whether the affected fish population would also be “self-sustaining” and “healthy”(passage to usable habitat would at least help make that so).
4. Ensure consistency with the statutory goal of restoring access to historic fish habitat by making the question whether native migratory fish could foreseeably access the habitat.

“No Appreciable Benefit” means that ~~accessible~~ fish habitat that would be made accessible, or more accessible, in the reach upstream or downstream of the artificial obstruction, does not currently provide and, with best professional judgement, will not foreseeably provide within the seven year duration of a fish passage exemption, habitat of the type, duration, frequency, quality, and quantity needed to support one or more ~~self-sustaining, healthy populations of one or more~~ life history stages of those native migratory fish that are present, or will foreseeably be present within the seven year duration of the fish passage exemption, upstream or downstream of the artificial obstruction ~~at the time of the exemption request.~~