Date: August 24, 2023

To: Jeff Ziller and Jeremy Romer

From: Pete Baki

Subject: OR58 MP 32.05 Exemption Request --- Benefit Analysis

Background:

The Oregon Department of Transportation (ODOT) seeks an exemption from fish passage requirements for an Unnamed Tributary to a side channel of the Middle Fork Willamette River at OR58 MP 32.05 (43.749434, -122.531065, Figure 1). ODOT intends to lengthen the culvert for a lane widening project which will trigger the State’s Fish Passage Policy (ORS 509.585) and requires that ODOT address fish passage through providing full fish passage or seeking a waiver or exemption. ODOT seeks a fish passage exemption at this location. Figures and pictures are in attachment 1.

Basin and Passage:

The channel above the OR58 MP 31.05 culvert is very short (approximately 50 feet) (Photo 1) and is of low quality for fish. This channel is historic habitat connected to side channels of the Middle Fork Willamette. There is one of these side channels approximately 75 feet below the culvert (Photo 2). Given the significant anthropogenic land alteration in the area on some of the other nearby streams and it is difficult to tell if this was the upper extent of an arm of the side channel or if it was connected in the past to Chilly Creek nearby. Significant flooding would need to occur for fish to access the channel above the culvert. The culvert would be passable when backwatered, however this likely rarely occurs. Land use in the direct vicinity is rural residential with houses and barns. Land above the houses is managed by the USDA. The channel is dry during the majority of the year and has standing water only during heavy rain events.

Exemption Eligibility

This site meets the exemption eligibility criteria of there being no appreciable benefit to providing fish passage under the current conditions (OAR 635-412.0025(1)(c)). The habitat
above the culvert is historic native migratory fish habitat and it is not likely that fish access that habitat currently, given the current site conditions. The channel above the highway is extremely limited and fish would likely get stranded if access was available. The amount of habitat above the culvert is very limited to approximately 50 feet.

Conclusion:

The Oregon Department of Fish and Wildlife Fish Screening and Passage Program recommends granting an exemption at OR58 MP 32.05 as requested by the ODOT. Due to the historic nature of the limited habitat above the culvert, ODFW does not see and appreciable benefit to providing passage at this location.

As required under OAR 635-412-0025(6), the exemption will be reviewed at least every seven years to determine if the exemption should continue. As with any fish passage exemption, if the conditions change, the exemption can be revoked.
Figure 1. Location of the culvert at OR58 MP 32.05

Photo 1. Channel above OR58. The channel is very small and dry most of the year. It is approximately 50 feet long.
Photo 2. The channel downstream of OR58 Looking at Middle Fork Willamette Side channel at Tree line