

**FINDING OF NO SIGNIFICANT IMPACT  
FISH PASSAGE CORRIDOR  
ELK CREEK PROJECT  
JACKSON COUNTY, OREGON**

The Elk Creek Project was authorized as one of three multiple purpose projects designed to operate as a system to reduce flooding in the Rogue River Basin, Oregon and to accomplish additional purposes such as irrigation, recreation, fish and wildlife enhancement, and water quality control. The other two dams are complete and operational. Lost Creek Dam was completed in 1976, followed by Applegate Dam in 1980.

Construction of Elk Creek project was initiated in 1971 with acquisition of project lands, relocation of residents, and relocation of some roads and utilities. Construction was deferred in 1977 due to a lack of State of Oregon's support for the project. The State later withdrew its objections and funds were appropriated in FY 1985 to resume construction. After initiation of construction, however, an injunction was placed against completion of the project. The injunction required that additional environmental analysis be done and construction of the project was terminated with the project at about one- third its design height until such analysis could be completed.

A supplemental environmental impact statement (SEIS) was prepared to conduct the required additional analysis. After completion of the SEIS an appeal was filed and the Ninth Circuit Court of Appeals reversed the District Court decision that the SEIS met the requirements of the earlier Ninth Circuit opinion and the injunction was upheld. The case was remanded back to the Corps with instructions to prepare another SEIS that adequately addressed all issues raised under the appeal.

Due to the Ninth Circuit Court of Appeals decision and the Federal budgetary climate, the Corps notified the Congressional Appropriations Committees on November 6, 1995 of the Corps' intention to study options for long-term management of the project in its uncompleted state rather than complete the analysis necessary to have the injunction lifted. The plan was to evaluate and implement measures in a two-phase process. The first phase would provide long-term fish passage by removing a section of the spillway and left abutment. The second phase will evaluate and implement measures required to resolve land management issues, potential equipment and gravel disposition, cultural resource requirements as well as other issues. Temporary fish passage around the project will continue to be provided until a long-term solution is implemented.

Although the Corps has no plans to perform the studies required to remove the injunction at this time, removal of a section of the spillway and left abutment will not prevent future completion of the project if the analysis is done and the injunction lifted. Removing a section of the dam will provide passive fish passage in accordance with the language in the FY 1997 Energy and Water Development Appropriations Act. In addition, it is the most cost-effective method to provide fish passage over the long term with the project in

an uncompleted state even when including the cost to replace the removed section of the dam if it is completed in the future.

The proposed action is to remove a portion of the unfinished Elk Creek dam and spillway structure as well as to realign the Elk Creek stream channel to its original location and gradient to restore passive fish passage through the project area. Constructing the fish passage corridor would require demolition of approximately 50,000 cubic yards (cy) of roller compacted concrete and approximately 15,000 cy of conventional concrete. Realignment of the stream and local grading would require moving approximately 275,000 cy of fill and approximately 1,000 cy of rock. The length of affected stream is approximately 5,000 feet. Bank protection for the restored Elk Creek may be required and may include as much as 5,000 cy of revetment. Revegetation for slope stability and stream bank erosion control is also included in the proposed action. A stream flow training wall may also be required to stabilize the creek and may include as much as 14,000 cubic yards of revetment and impermeable core materials. In-stream design features such as rock weirs would maintain water velocities in ranges acceptable for passage of anadromous fish. The plan would also utilize a portion of the existing tailrace to create a backwater area. This backwater would provide over-winter habitat for juvenile coho and steelhead.

Environmental effects from the proposed action are primarily short-term turbidity increases that could affect water quality temporarily. Naturally occurring sediments in the newly constructed channel would be carried downstream and would reform as sandbars at downstream locations similar to that which occurred prior to construction of the dam. Best management practices will be implemented to protect water quality in Elk Creek throughout all phases of construction.

There are several sites on the project where construction debris had been left after the original contract was terminated. Removal of all the remaining construction debris from the project would eliminate any potential impacts to the stream from these materials.

Impacts to flood control and water supply from the proposed project would be minimal. In its present, partially completed condition, Elk Creek dam does not provide any flood control storage. The smallest annual flooding events at the site have about 15 times the volume of storage available in the impoundment behind the dam. This storage capacity would be reached long before the peak flow of any event passes through the dam and, at that point, projected outflow would be equal to inflow and no reduction of flow and stage downstream of the dam on Elk Creek or the Rogue River would be seen.

As indicated, Elk Creek Project currently has only minimal storage capacity. Consequently, it would not provide any water that could be used for water supply for the region.

A draft Environmental Assessment (EA) was issued for the project on October 5, 2007 for a 30-day public and agency review. A total of 316 comments were received on the draft EA. Of the comments received, 287 supported the project as proposed. Support was

primarily because of the restored fish and wildlife habitat that would occur with the project as well as the restoration of project habitat. In addition, support was also expressed for the improved recreational opportunities in Elk Creek for white-water enthusiasts by providing access through the dam site.

Opposition to the project was primarily due to concerns about the perceived loss of flood control and water supply in the region. These concerns seemed related primarily to the original decision not to complete the dam rather than to the loss of minimal flood control and water supply that are provided with the partially completed dam. A discussion on flood control and water supply available with the partly completed dam has been added to the Final EA.

NMFS issued a biological opinion for the project in January 2001. The opinion indicated that passage through the existing diversion tunnel and continued operation of the existing temporary trap and haul facility would result in jeopardy to listed species. The opinion also indicated that the fish passage corridor would not result in jeopardy, and would be the best alternative from a biological perspective. NMFS reviewed the 2001 BiOp and determined that it still applied for the proposed action.

Fish and Wildlife Service provided a concurrence letter for the Corps BA in February 1998 and a subsequent review and re-concurrence in November 2001. FWS reviewed the early documents and concurred again in November 2007 with the earlier decision that the concurrence letter was still valid.

A State of Oregon water quality certificate was issued for the proposed project on October 25, 2001. The certificate was issued with no expiration date and since the project has not changed from that proposed in 2001, the certificate is valid for this action.

Based upon the EA prepared for this project, I have determined that the proposed action would not significantly affect the quality of the human environment and that an Environmental Impact Statement is not required.

DEC 20 2007

Date: \_\_\_\_\_



THOMAS E. O'DONOVAN  
Colonel, EN  
Commanding