



Oregon

Tina Kotek, Governor

Department of Fish and Wildlife
South Willamette Watershed District Office
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March 29, 2024

Kevin Groom, PE
Linn County Road Department
3010 Ferry Street SW
Albany, OR 97322

**Re: Fish passage approval for the Owl Creek bridge replacement on Peoria Road,
PA# 02-0418**

Dear Mr. Groom,

The Oregon Department of Fish and Wildlife's (ODFW) staff have reviewed the application and design plans for this project. This letter constitutes ODFW Fish Passage Approval, as required in Oregon Revised Statute 509.585.

The proposed project will replace a 23-foot wide single-span bridge with a 55-foot wide single-span bridge over Owl Creek, a seasonal tributary to Muddy Creek in Linn County. Owl Creek is used seasonally by a variety of native fish species, including juvenile Chinook salmon, winter steelhead, and cutthroat trout among others.

This action has triggered the state's fish passage rules and regulations. ODFW has reviewed the project design plans submitted to ODFW and have determined that the design plans are consistent with the state's fish passage design criteria, as defined in OAR 635-412-0035 and therefore approve the project as required by Oregon fish passage law (ORS 509.585).

This ODFW fish passage approval is contingent on specific operational provisions which include:

1. All in-water work, defined as work at or below the ordinary high water mark elevation of the project area, shall be completed during the appropriate ODFW in-water work period, or as otherwise defined by ODFW.
2. The ODFW District Fish Biologist shall be contacted 2-weeks prior to the implementation of the project.
3. Fish salvage and rescue shall be performed prior to the commencement of any in-water work, including work area isolation and temporary water management.
4. Temporary water management and work area isolation measures shall be implemented during the project. Downstream passage of native migratory fish shall be provided during construction.

5. Pursuant to OAR 635-412-0035 (10e), prior to in-stream construction activities, all fish must be safely collected, removed from the construction site or dewatered reach, and placed in the flowing stream by an authorized person in possession of a separate valid permit issued by ODFW. An Oregon Scientific Take Permit (OR-STP) from ODFW is required to conduct fish salvage in Oregon and other additional authorization may be needed from NMFS or USFWS if work is in ESA waters. OR-STPs can take up to 4-6 weeks for processing and can be applied for at: <https://apps.nmfs.noaa.gov/index.cfm> or if you have questions about OR-STP permitting, please contact fish.research@odfw.oregon.gov
6. Volitional downstream passage of native migratory fish shall be maintained throughout and during implementation of the project, if the project has flowing surface waters during project implementation.
7. The owner/operator of the structure shall be responsible for all maintenance required such that the project provides adequate passage for native migratory fish. Adequate fish passage is defined as volitional fish passage of native migratory fish species between the fish passage design flows (5% to the 95% exceedance flows) for the project.
8. Failure to maintain fish passage at this location and for the duration of this approval shall constitute a violation of this approval and applicable fish passage laws (ORS 509.585 and 509.610).
9. Monitoring and reporting on the effectiveness fish passage is required at the project. Monitoring shall coincide with the time of the year when native migratory fish are migrating through the project area. Monitoring and reporting shall be based on visual observations, established photo points, flow velocity characteristics, or other means, particularly with regards to fish passage conditions and fish passage performance through the project.
10. Monitoring reports shall be submitted to the ODFW Fish Passage Program staff (cc'd) and the ODFW District Fish Biologist for a period of five years post-construction on years 1, 3, and 5.
11. If monitoring indicates that volitional fish passage is questionable or not provided, the owner/operator, in consultation with the ODFW, shall determine the cause and, during a work period approved by the ODFW, shall modify the structure to rectify fish passage problems as necessary. Failure to monitor fish passage for the duration of the ODFW fish passage approval shall constitute a violation of this approval and applicable fish passage laws (ORS 509.585 and 509.610).
12. The ODFW shall be allowed to inspect the project at reasonable times for the duration of this approval. Unless prompted by emergency circumstances, inspection shall be limited to regular and usual business hours, including weekends.
13. It is the responsibility of the applicant to comply with all necessary and required local, county, state, and federal approvals and permits.
14. This approval in no way purports or authorizes take of a federally or state listed species.

This approval is solely for the purpose of fulfilling Oregon's fish passage statutory requirements and responsibilities administered by the Oregon Fish and Wildlife Commission or the ODFW, and does not satisfy any other Department, federal, state, or local laws, rules, or regulations, including but not limited to State or Federal Endangered Species Acts, any applicable water rights, approvals or other certificates administered by regulatory authorities.

Please retain this correspondence for your records, as this documents the ODFW's approval of fish passage at this project site. Again, please note that it is the responsibility of the owner/operator, to maintain the project as approved (ORS 509.610). Thank you for cooperation and patience as we

worked through the fish passage plan and application for this project. If you have any questions, please contact me.

Sincerely,

Alex Farrand

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ODFW Project files PA# 02-0418