



February 27, 2019

STATEMENT OF NO CONFIDENCE & REQUEST CONTRACT FULFILLMENT

In 1972 the United States Army Corps of Engineers (USACE) contracted with the people of the State of Oregon to mitigate the loss of Spring Chinook habitat due to the Lost Creek Dam project by constructing the Cole River Hatchery. Part of that contract mandated 13,020 Spring Chinook adults, per year, return to the Cole M. Rivers Hatchery. The contract specified the Oregon Department of Fish and Wildlife (ODFW) was to achieve those mitigation results for the blocked habitat. Curry County alleges, and ODFW has agreed, that ODFW failed to meet the mandated mitigation numbers.

The negative impact to the health and sustainability of this historically important regional fish population and fishery has been significant, and, to date restoration and mitigation efforts have shown to be vastly insufficient and rely on harvest curtailments, not habitat or mitigation needs. It is estimated the failure to fulfill the contractual obligations has resulted in approximately an annual \$15 million in lost economic opportunity and \$260 million dollars over the last 20 years. (See Exhibit A)

The Curry County Board of Commissioners, and the Josephine County Board of Commissioners, issue this Statement of No Confidence in the Army Corps of Engineers and Oregon Department of Fish and Wildlife to fulfill their contractual obligations to mitigate impacts of the Lost Creek Dam Project. The counties demand contractual obligations be satisfied, specifically:

1. Hatchery contractual requirements of 13,020 adult Spring Chinook, of hatchery origin, return annually to Cole Rivers Hatchery as outlined in the Environmental Impact Statement of 1972.
2. That the USACE adheres to a 'No Harm Policy' related to Spring Chinook as stated in the Lost Creek Dam Project Authorization. That policy reads, "any flood control plan detrimental to the fishery resource would be unacceptable, both locally and to the Federal and State fishery agencies".
3. That USACE rectify claims that resulted and continue to inflict severe negative impacts to Wild/NP Spring Chinook population and local/regional economies.
4. During hearings USACE stated that there would be no loss to spawning gravel below the dam, and thus, did not allow for the eventuality of derogated spawning habitat found

below the dam today. ODFW did not challenge this allegedly false premise put forth by the USACE. It is demanded USACE and ODFW mitigate for lost spawning gravel in the Upper Rogue to restore Wild/NP Spring Chinook to pre-dam population levels below the Lost Creek Dam project.

5. That ODFW and USACE rebuild and/or make whole the once famous Rogue River Spring Chinook fishery and the economy it supported prior to the Lost Creek Dam project.

On behalf of the Curry County Board of Commissioners, and the Josephine County Board of Commissioners, we request the Army Corps of Engineers and Oregon Department of Fish and Wildlife fulfill their contractual obligations to mitigate for impacts of the Lost Creek Dam Project.

Sincerely,



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Chair, Board of Commissioners
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Cover Page:

The Unknown Rogue River Spring Chinook Salmon Tragedy

It is time to understand the damage being done but not seen to Rogue River Spring Chinook Salmon and to recognize that the lack of fiduciary duty the Oregon Department of Fish and Wildlife and the Army Corps of Engineers has brought to management of the once world famous Rogue River Spring Chinook runs. Both Wild and Hatchery Spring Chinook runs have been brought to their knees and are fighting for survival.

- The Rogue Basin Flood Control Project was started in 1935 paused during the war years and then heated up in 1956 just after the destructive Flood of 1955. The authorization for the Rogue Basin Project came in the Rivers and Harbors Act of October 23rd, 1962, two years prior to the devastating Christmas Day Flood of 1964.
- The Final (EIS) Environmental Impact Statement for Lost Creek Dam was published in May of 1972, which gave direction of how the Lost Creek Project was to be operated and impacts mitigated for.
- **“Do No Harm statement”** This statement came from a public meeting in 1956 and followed all authorization documentation forward.
“On the fact that *any flood control plan detrimental to the fishery resource would be unacceptable*, both locally and to the Federal and State fishery agencies”.
- Cole Rivers Hatchery was ordered to be built and in operation before Lost Creek Dam could be built. Hatchery construction was completed in 1973 and the dam construction was begun and completed in 1977. The primary purpose of Cole Rivers Hatchery was to mitigate for Spring Chinook spawning and rearing habitat lost. Cole Rivers Hatchery was to produce 13,020 returning Adult Spring Chinook at the hatchery to meet the projects authorization requirements.
- Over the last 14 years Hatchery Spring Chinook shortfalls average 63% and Wild or Natural Spawning runs of Spring Chinook are now 60% below expected levels. Wild / Natural Producing Spring Chinook populations are shattered by predictable but unaddressed habitat issues. Wild Spring Chinook harvest has virtually been closed down with a huge economic impact.
- It is time to hold the U.S. Army Corps of Engineers and ODFW accountable for their management failures in sustaining the once famous Rogue River Spring Chinook run. The combined agency inaction has resulted in higher sport license fees and severely restricted sport harvest regulations. These two events when combined spell FAILURE. It is time for the counties, ports, and all user groups to demand that fisheries be restored to levels intended in the EIS of 1972. The public has lost trust in these two agencies.

Cole Rivers Hatchery Mitigation Results 2005 – 2018

Statement from 1972 Final Environmental Impact Statement for Lost Creek Lake

“The project will effectively isolate the upstream drainage area from use by anadromous fish. Maintenance of anadromous and resident fish populations will be dependent upon the fish hatchery (Cole Rivers) for artificial spawning and rearing”.

Final EIS Summary Sheet - 3. a. Environmental Impact:

Flooding of river valley behind dam used for timber production, farming, pasture, and wildlife habitat; loss of an 11-mile stretch of natural stream to be covered by the lake; reduction of flood damage downstream along Rogue River; provision of water for irrigation, municipal and industrial water supply, recreation, fish and wildlife, and water quality improvement; hatchery production to compensate for fishery losses and power production.

Final EIS Page 1-9 “Included in the project is the construction of Cole M. Rivers Fish Hatchery. That work is in progress and will be completed January 1973. The hatchery will be capable of producing 425,100 pounds of fish per year. That capacity is based on requirements to provide restitution for loss of spawning and rearing areas at Lost Creek as well as the other authorized Rogue Basin projects, Elk Creek and Applegate. The species to be reared are spring chinook, summer and winter steelhead, Coho salmon, rainbow trout, and kokanee salmon”.

Final EIS Page 3-8 It’s also stated that by 1980 there will be 3.3 million visits along the Rogue River.

Final EIS Page 3-10 “It is estimated that the stretch of river from the dam upstream provides spawning area for 13,020 spring chinook and 500 summer steelhead. Production at Cole M. Rivers Hatchery will be sufficient to cover those losses. Annual production will be about 425,000 pounds which is equivalent to about 3,500,000 fingerlings. The 11-mile length of free-flowing stream to be inundated, considered to be of excellent quality for spawning, also will be lost as natural habitat for resident rainbow and cutthroat trout. Stream fishing for the resident and anadromous species along the inundated stream will be lost and replaced by a reservoir fishery and an improved downstream fishery. While the total harvest of the resources is expected, by the fishery agencies, to increase, the type of the fishing experience in the 11-mile reach will change to a lake-type fishery. The natural run of anadromous fish which utilizes the river above the dam will be blocked”.

Final EIS Page 3-10 Resumption of studies for a water resource project by the Corps was initiated by a public hearing in Grants Pass on 15 November 1956. At that hearing the emphasis of testimony was on:

- (1) Prevention of flood damages, with associated irrigation, power generation, and recreation benefits;
- (2) On the fact that any flood control plan detrimental to the fishery resource would be unacceptable, both locally and to the Federal and State fishery agencies.

The Final Environmental Impact Statement May 8, 1972 clearly states Spring Chinook return above Lost Creek Dam required being 13,020 adults at the hatchery for authorization of the Lost Creek Dam Project.

Rogue Spring Chinook Salmon Conservation Plan Assessment and Update Draft 11/15/2018 Page 11

“The percentage of hatchery fish among Spring Chinook spawning naturally in the Rogue River was less than 1% in 2017, and has averaged less than 5% over the last 10 years. These values are far below the desired status identified in the Plan of 15%, and have dropped substantially from the percentage of hatchery spawners at the time the Plan was adopted.” (2007)

Appendix A. Hatchery Program Update (same document)

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“Background: Cole Rivers Fish Hatchery was built by the Corps of Engineers to replace the fish and fishery that were lost due to dam construction and operation. The primary purpose of Cole Rivers Hatchery is to produce Spring Chinook Salmon for mitigation for lost spawning habitat inundated by William Jess Dam which was completed in 1977, blocking 10 miles of the mainstem and portions of both the Middle Fork and South Fork of the Rogue River”.

What fish does Cole Rivers Hatchery produce for the Rogue River? (same document)

“Cole Rivers produces fish to meet the mitigation obligation for William Jess Dam (Lost Creek Dam). The primary purpose of the hatchery is production of Spring Chinook salmon. William Jess Dam/Lost Creek Reservoir stopped production of about 1/3 of the spawning population of Rogue spring Chinook. The mitigation goal is 13,020 adult Spring Chinook at the hatchery. Cole Rivers hatchery also has mitigation goals for Coho Salmon, Summer Steelhead, Winter Steelhead, and Rainbow Trout”.

Does Cole Rivers Hatchery mark all the hatchery Spring Chinook with a fin clip?

“Beginning with the smolt release in 2007, the spring Chinook produced at Cole Rivers Hatchery have been all been released with an adipose fin clip. The fin clipping is accomplished using an automated process in a marking trailer that moves around the state. The hatchery goal is for a 100% fin clip rate. Recently, the fin clipping has taken place in March at Cole Rivers”.

The above 100% fin clipping allows us to have a finite assessment of Cole Rivers Hatchery Pond collection data, 2012 thru 2018 and beyond.

Prior to 2007 not all hatchery released stocks were fin clipped. After 2007 all returning Spring Chinook of Hatchery Origin were fin clipped. Prior to 2007 estimates of return were used with about 90% marked before release.

Counts for Naturally Produced (Wild) Spring Chinook entering the hatchery collection pond were not counted or made available until 2016, 2017 and 2018. In the graph below the Release Return is the percentage of adults that returned from hatchery smolt release.

Cole Rivers Hatchery Mitigation Results 2005 – 2018

Hatchery Spring Chinook Returns – required return at Hatchery per Final EIS of 13,020 Adults.

Year	Hatchery Return	Less Wild & Jacks	Hatchery Adults	Deficit of 13,020 Return % of Release Return
2018	5,027	233 Wild = 4.5% 720 Jacks = 14.5%	4,074 Shortfall -8,947	69% Deficit 0.28% Release Return
2017	4,280	338 Wild = 7.9% 973 Jacks = 21%	2,969 Shortfall -10,051	77% Deficit 0.23% Release Return
2016	2,698	182 Wild = 7% 670 Jacks = 25%	1,846 Shortfall -11,174	85% Deficit 0.15% Release Return
2015	8,278	406 Wild = 4.9% 310 Jacks = 4%	7,562 Shortfall -5,458	54% Deficit 0.46% Release Return
2014	8,563	Estimate 7.75% Wild = 663 Estimate Jacks = 20% = 1,712	6,188 Shortfall -6,832	53% Deficit 0.47% Release Return
2013	9,759	Estimate 7.75% Wild = 759 Estimate Jacks = 20% = 1,952	7,044 Shortfall -5,976	46% Deficit 0.51% Release Return
2012	10,995	Estimate 7.75% Wild = 825 Estimate Jacks = 20% = 2,198	7,972 Shortfall -5,048	39% Deficit 0.57% Release Return
2011	6,748	Estimate 7.75% Wild = 523 Estimate Jacks = 20% = 1,350	4,051 Shortfall -8,969	69% Deficit 0.30% Release Return
2010	8,243	Estimate 7.75% Wild = 639 Estimate Jacks = 20% = 1,648	5,956 Shortfall -7,064	54% Deficit 0.43% Release Return
2009	5,526	Estimate 7.75% Wild = 429 Estimate Jacks = 20% = 1,106	3,991 Shortfall -9,029	69% Deficit 0.28% Release Return
2008	5,703	Estimate 7.75% Wild = 442 Estimate Jacks = 20% = 1,140	4,121 Shortfall -8,899	68% Deficit 0.29% Release Return
2007	5,271	Estimate 7.75% Wild = 411 Estimate Jacks = 20% = 1,140	3,763 Shortfall -9,257	72% Deficit 0.27% Release Return
2006	5,243	Estimate 7.75% Wild = 404 Estimate Jacks = 20% = 1,048	3,784 Shortfall -9,236	72% Deficit 0.27% Release Return
2005	8,875	Estimate 7.75% Wild = 688 Estimate Jacks = 20% = 1,776	6,410 Shortfall -6,610	51% Deficit 0.46% Release Return
Avg.	6,800	14 yr. Wild Average = 541 14 yr. Jack Average = 1,575	Avg. Return 4,881 Shortfall – 8,139	63% Deficit 0.37% Release Return
		<i>Required Adult Annual Hatchery Return 13,020 Adults 182,280 over 14 years. Actual 14 yr. return total 68,334 Hatchery Adult for a 4,881 Avg. Annual Hatchery Adult Return. 14 year Shortage 113,945</i>	<i>Used 2009 Economic Study of Rogue River Salmon Dollar amounts are in 2007 Dollars</i>	<i>Annual Average (14 year) economic In river harvest loss @ \$576.00 per fish = \$4,688,064.00 per year 14 yr. Deficit = \$65,632,896.00</i>