



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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EXHIBIT A

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 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 and 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 1972, which gave direction of how Lost Creek Dam was to be operated and impacts mitigated for.
- (This statement came from a public meeting in 1956 and followed all 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 operating before Lost Creek Dam could be built. Hatchery construction was completed in 1973, at which time the dam construction was begun and then completed in 1977. The primary purpose of Cole Rivers Hatchery was to mitigate for Spring Chinook habitat and spawning areas lost. Cole Rivers Hatchery was to produce 13,020 returning Adult Spring Chinook at the hatchery to meet the projects authorization requirement's.
- 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 stopped with huge economic impacts.
- 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 action to restore the public trust in these two agencies.

Rogue Spring Chinook Salmon Conservation Plan Assessment and Update Draft 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.”

Appendix A. Hatchery Program Update

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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?

“Cole Rivers produces fish to meet the mitigation obligation for William Jess 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.

Counts for Naturally Produced (Wild) Spring Chinook entering the hatchery collection pond were not counted or made available until 2016, 2017 and 2018.

Cole Rivers Hatchery Mitigation Results 2005 – 2018

10 Year Avg.	Hatchery Return Avg.	Jacks Avg. No Wild Info. *	Hatchery Adults	Percentage of 13,020 Goal / Release Return
1981 - 1990	34,062	14,419* 43% Jacks	19,643	151% 2.6% Return
1991 - 2000	28,589	4,071* 14% Jacks	24,518	189% 1.9% Return
2001 - 2010	9,602	1,704 Est. 18% Jacks	7,898	-40% .54% Return
2011 - 2018	*6,419 (8 year)	1,247 Est. 18% Jacks	5,172	-62% .38% Return

1. 37 year average return of Jacks (under 24") to hatchery is 23.25% we use a 20% Jack return in our estimates where data is yet available.
2. Currently less than 1% of hatchery Spring Chinook are found spawning in the wild.
3. ODFW currently produces 365,125 pounds of hatchery mitigation of salmon, steelhead and trout. The EIS allows 425,000 pounds of mitigation. This is 59,875 below EIS stated levels of production. 174,688 pounds of Spring Chinook are now produced.
4. The Final EIS in referring to trout production says 50,000 pounds for Lost Creek Reservoir.
5. Cole Rivers Hatchery stated primary purpose is to mitigate for lost spawning habitat for Spring Chinook Salmon. It is unclear why ODFW only allots 47.7% of mitigation to Spring Chinook production.
6. 174,688 pounds of Spring Chinook smolt produced out of 365,125 pounds of mitigation (47.7% of production) with 59,875 pounds not being used is not primary production while returning 63% below required 13,020 hatchery Spring Chinook Adults that is just 4,881 over last 14 years.
7. Cole Rivers Hatchery Spring Chinook Return is near .38% - Hatchery Steelhead return at 3%.
8. We used The Economic Value of Rogue River Salmon from ECONorthwest 2009 to arrive at economic value of \$576.00 per Spring Chinook Salmon. It was the lowest price of options given, basically the less fish returning the higher the value as harvest availability plays apart. More salmon that return lower the value of each salmon the less return cost to harvest goes up. Next step up being \$821.00 each. Page 20
http://www.oregoncoastalliance.org/documents_13/ECON_Rogue_Salmon_Study.pdf

Rearing and Release Strategies: The hatchery program for spring Chinook Salmon is a mitigation program intended to replace lost natural production. Approximately 1,703,250 smolts are released between mid-August and mid-March for 174,688 pounds of Spring Chinook smolt is 41% of EIS 425,000 pounds of production.

Mid-August 652,000 @ 13 fish per pound - 56,154 pounds on-station release at hatchery
 Mid-August 78,000 @ 13 fish per pound - 6,000 pounds released in Rogue Estuary (new)
 Mid-September 730,000 @ 9 fish per pound – 81,111 pounds on-station release at hatchery
 Mid-October 193,250 @ 6.5 fish per pound – 29,730 pounds on-station release at hatchery
 Mid-March 50,000 @ 6.5 fish per pound - 7,692 pounds release off site at Gold Hill

“The smolts are released primarily into the mainstem at the hatchery at river mile 157. Some releases are trucked and released downstream to minimize impacts on naturally produced spring Chinook

Continued: Concerning Wild or Naturally Producing Spring Chinook

Final EIS Page 8-14 & 15

U.S. DEPT. OF INTERIOR, OFFICE OF THE SECRETARY.

Public Comment:

Another downstream impact expected is loss of salmon and steelhead spawning habitat below the Lost Creek Dam. Natural Replenishment of gravel supply will not occur as a result of the reservoir and dam construction.

USACE Response: True for Fall Chinook but not Spring Chinook

As an impact from Lost Creek Dam and resulting flow augmentation and temperature control, it is expected that salmon and steelhead spawning habitat will be improved. Though replenishment of gravels in the Rogue River downstream from the dam will be stopped, it has been the experience at other Corps projects that the naturally-occurring supply of gravels from tributaries and from natural shoreline erosion is sufficient to maintain spawning habitat.

Author Comment: The public was misled by USACE in public comment. It is a mystery why ODFW who was present allowed this blatant falsehood to stand and not be addressed in relation to Spring Chinook Salmon. Lack of Spawning Gravel below Lost Creek Dam is one of the top two reasons Wild / Naturally Produced Spring Chinook have declined over 63% in population and resulted in a conservation status with sever harvest limitations resulting economic harm.

The USACE spokesman cited tributaries for naturally-occurring supply of gravels. What tributaries, Elk Creek was to be Dammed so no gravel from there. Big Butte Creek is gravel poor, Trail Creek has very low supplies of gravel. There are no significant gravel recruitment sources in the entirety Spring Chinook Spawning area. Very inaccurate and uncorrected comments and direction.

I refer back to:

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.

Reference Material used in this Report

- **Effects of Lost Creek Dam on Spring Chinook Salmon in the Rogue River**
<https://digital.osl.state.or.us/islandora/object/osl%3A35566>
- **Rogue River Fisheries Evaluation Project 1991**
United States Army Corps of Engineers Portland District
<https://usace.contentdm.oclc.org/digital/collection/p16021coll3/id/219/>

ODFW Cole Rivers Hatchery Collection Pond Data used in creating this Document

- **2018 Hatchery Return Report -**
https://www.dfw.state.or.us/fish/fish_counts/rogue_river/cole_rivers/2018/ColeRivers_SpringChinook.pdf
- **2017 Hatchery Return Report -**
https://www.dfw.state.or.us/fish/fish_counts/rogue_river/cole_rivers/2017/ColeRivers_SpringChinook.pdf
- **2016 Hatchery Return Report -**
https://www.dfw.state.or.us/fish/fish_counts/rogue_river/cole_rivers/2017/ColeRivers_ChS.pdf
- **Lost Creek final EIS Document (go to item 10)**
[http://140.211.107.158/knowvation/app/consolidatedSearch/#search/v=grid,c=1,q=qs%3D%5Bhouse%20bill%20566%2C%20authorizing%20document%5D%2Csubject%3D%5BRogue%20River%20Basin%20Project%2C%20Oregon%20\(U.S.\)%5D%2Ccreator%3D%5B\(United%20States.%20Army.%20Corps%20of%20Engineers.%20Portland%20District\)%5D%2Cfield1%3D%5BBioregion%5D%2CqueryType%3D%5B16%5D,sm=s,sb=0%3Afield9%3ADESC,l=library1_lib%2Clibrary2_lib,a=t](http://140.211.107.158/knowvation/app/consolidatedSearch/#search/v=grid,c=1,q=qs%3D%5Bhouse%20bill%20566%2C%20authorizing%20document%5D%2Csubject%3D%5BRogue%20River%20Basin%20Project%2C%20Oregon%20(U.S.)%5D%2Ccreator%3D%5B(United%20States.%20Army.%20Corps%20of%20Engineers.%20Portland%20District)%5D%2Cfield1%3D%5BBioregion%5D%2CqueryType%3D%5B16%5D,sm=s,sb=0%3Afield9%3ADESC,l=library1_lib%2Clibrary2_lib,a=t)
- **Rogue Spring Chinook Salmon Conservation Plan Draft Comprehensive Assessment and Update of 11/15/18**
https://www.dfw.state.or.us/fish/CRP/docs/rogue_spring_chinook/Rogue_CHS_Comprehensive_Assessment_11-15-18.pdf
- **Lost Creek Project Authorization Document**
<file:///C:/Users/Steve/Documents/Chief%20of%20Engineers%20H%20Doc%20566.pdf>
Flood Control Act of 1962
TITLE II—FLOOD CONTROL PUBLIC LAW 87-874-OCT. 23, 1962 / Page 1192
- **The Economic Value of Rogue River Salmon 2009**
http://www.oregoncoastalliance.org/documents_13/ECON_Rogue_Salmon_Study.pdf
- **Cole Rivers Hatchery Program Management Plan 2019**
<https://digital.osl.state.or.us/islandora/object/osl:79759>
- **PASSAGE ESTIMATES OF SPRING CHINOOK SALMON AT GOLD RAY DAM**
[https://www.dfw.state.or.us/fish/local_fisheries/rogue_river/goldray/historical/Annual GRD Counts CHS.pdf](https://www.dfw.state.or.us/fish/local_fisheries/rogue_river/goldray/historical/Annual_GRD_Counts_CHS.pdf)