

ANALYSIS

Department of Fish and Wildlife Fish Hatcheries

Analyst: John Terpening

Request: Acknowledge receipt of a report on an analysis of Leaburg and Rock Creek fish hatcheries.

Analysis: The Oregon Department of Fish and Wildlife (ODFW) has submitted a report related to the Leaburg and Rock Creek fish hatcheries pursuant to a budget note approved in HB 5009 (2021):

***Hatchery Analysis:** The Leaburg Hatchery is currently owned by the US Army Corps of Engineers (USACE) and operated under lease by the Department of Fish and Wildlife (ODFW). Within the 2021-23 biennium, it is anticipated that the USACE will offer to convey ownership of the property to ODFW when the current lease expires. The Department is directed to report to the Legislature the method and conclusions around due diligence conducted by ODFW prior to taking ownership of the hatchery.*

Additionally, the Department is anticipating funding from both State insurance and Federal Emergency Management Agency around the fire damage sustained at Rock Creek Hatchery. The Department is directed to report to the Legislature on any analysis done around the rebuilding of Rock Creek Hatchery, including an analysis of statewide hatchery needs and best practices. The Department is directed to provide both reports to the Joint Committee on Ways and Means during the 2022 Legislative session.

Leaburg Hatchery

The U.S. Army Corps of Engineers (USACE) funded ODFW's operation of the Leaburg Hatchery from 1953 until 2018, when the USACE ended funding and operation. While the Oregon Legislature has provided funding since 2018 to continue operations of the hatchery, ownership of the property still belongs to USACE, which agreed to lease the property at no cost to ODFW. The current lease is set to expire June 27, 2022. USACE has indicated to the Department a desire to extend the lease and ultimately transfer ownership of the property to ODFW, however that process has been delayed due to the closure of the nearby McKenzie Hatchery.

The McKenzie Hatchery provided spring chinook as part of the Willamette Valley Hatcheries contract with the USACE. Through this contract, USACE provides funding to the Department to produce salmon and steelhead at the McKenzie and three other hatcheries to offset impacts of USACE dams in Oregon. However, the Eugene Water Electric Board identified several safety issues with the Leaburg Canal which supplied water to the McKenzie Hatchery, forcing closure of the canal and subsequently the hatchery. As a result, the rearing of fish during the summer and fall months has been transferred to Leaburg in order to fulfill the Willamette Valley Hatcheries contract. This contract is in place until 2025, which allows ODFW to operate the Leaburg Hatchery under the lease agreement, but also as a "government furnished property" for USACE to fulfill the terms of the contract.

Due to the production shift to Leaburg and contract timeline, the potential hatchery ownership transfer is not anticipated to take place until 2025 at the earliest. Prior to any transfer, ODFW will need to undertake due diligence as part of the State's property acquisition process, which includes

notification to the Department of Administrative Services (DAS); a property appraisal and environmental site assessment; Public Lands Advisory Committee approval, and approval by the Fish and Wildlife Commission.

Rock Creek Hatchery

The Rock Creek Hatchery included five houses, a shop-hatch house facility, and education center and an adult trap and passage facility, all operated by five staff. The Archie Creek Fire of September 2020 destroyed most of the hatchery's structures and resulted in the loss of around 750,000 Coho smolts. Currently, ODFW is pursuing insurance claims for property and equipment loss through both DAS Risk Management and the Federal Emergency Management Agency (FEMA), however progress has been slow. To date, the Department has received \$250,000 in insurance payments, and FEMA has approved reimbursement of lost equipment totaling \$216,000, however the FEMA amount has not yet been claimed as the Department continues to work with insurance for potential coverage of 100% of costs.

The Department has temporarily rebuilt facilities for both fish collection and holding allowing for accepting of adult returns in 2023 and 2024, as well as providing basic services for staff and has installed temporary communications and alarm services. ODFW's estimates the potential costs to rebuild fully functional facilities at Rock Creek Hatchery at around \$25.9 million, however the Department must weigh a number of factors before deciding upon a full rebuild.

One factor is temperature and disease issues, which have made maintaining programs at Rock Creek difficult. As part of its hatchery analysis, ODFW looked at stream temperatures and flows, disease outlook, and water rights and availability. Additionally, ODFW has put out a request for proposals to hire a contractor to assess climate vulnerability for Rock Creek and five other hatcheries around the state. This assessment is expected to provide some potential solutions needed for both production and facility needs and is anticipated in spring 2022. Once that assessment is received, it should help inform the Department in the development of alternatives, including but not limited to:

1. Close Rock Creek facility and invest funds at other hatchery facilities
2. Partial rebuild of Rock Creek facility to utilize as a collection and acclimation site only
3. Partial rebuild of Rock Creek facility for adult collection, incubation and acclimation and transfer rearing function to other hatcheries
4. Complete rebuild of Rock Creek with additional improvements to address existing climate issues.

ODFW indicates that the statewide fish hatchery system's best practices are an ongoing process that is influenced by a number of policies and agreements with federal agencies, with the overarching goal to ensure that hatchery operations pose minimal risk to native populations.

The Legislative Fiscal Office notes that the budget report directed an "*analysis of statewide hatchery needs and best practices*" and the submitted reports scope is limited to only a few hatchery facilities. This is not unexpected, as it would be difficult for ODFW to complete such a comprehensive study given the allotted timeframe and without the provision of additional resources. As part of the Department's budget presentation to the Joint Committee on Ways and Means during the 2023 legislative session, the Department will provide an update to the Legislature on any developments around Leaburg and McKenzie hatcheries, the result of insurance negotiations around Rock Creek, and the conclusions of the climate vulnerability assessment.

Recommendation: The Legislative Fiscal Office recommends acknowledging receipt of the report.



Oregon

Kate Brown, Governor

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January 11, 2022

Senator Elizabeth Steiner Hayward, Co-Chair
Representative Dan Rayfield, Co-Chair
Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301



Dear Co-Chairpersons:

Oregon Department of Fish and Wildlife (ODFW) requests an opportunity to provide a progress report to the Joint Committee on Ways and Means on the analysis conducted around the department potentially assuming ownership of Leaburg Hatchery and the analysis conducted around rebuilding Rock Creek Hatchery, including an analysis of statewide hatchery needs and best practices.

Agency Action

ODFW's 2021-23 budget bill, House Bill 5009, included the following budget note instructions:

The Leaburg Hatchery is currently owned by the US Army Corps of Engineers (USACE) and operated under lease by the Department of Fish and Wildlife (ODFW). Within the 2021-23 biennium, it is anticipated that the USACE will offer to convey ownership of the property to ODFW when the current lease expires. The Department is directed to report to the Legislature the method and conclusions around due diligence conducted by ODFW prior to taking ownership of the hatchery.

Additionally, the Department is anticipating funding from both State insurance and Federal Emergency Management Agency around the fire damage sustained at Rock Creek Hatchery. The Department is directed to report to the Legislature on any analysis done around the rebuilding of Rock Creek Hatchery, including an analysis of statewide hatchery needs and best practices.

The Department is directed to provide both reports to the Joint Committee on Ways and Means during the 2022 Legislative session.

Budget Note: Leaburg Hatchery

Background

The US Army Corps of Engineers (Corps) constructed Leaburg Hatchery in 1953 on the McKenzie River near Leaburg, Oregon to mitigate for lost trout habitat blocked and inundated by federal dams in the Willamette Valley.

The U.S. Army Corps of Engineers (Corps) funded ODFW to operate the hatchery from the time it was constructed until July 1, 2018, when the Corps ended the funding and operation of the Leaburg Fish Hatchery. The Corps is currently leasing Leaburg Hatchery to ODFW at no cost and is looking to transfer ownership to ODFW. In the 2018 short session, the Oregon Legislature provided interim funding to avoid closure and loss of staff in the interim (July 2018 – Jun 2019). In the 2021 session the legislature approved funding of \$302,681 General Fund and \$1,111,578 License Fund to continue operations at the hatchery.

Leaburg Hatchery has proven to be an irreplaceable asset in Oregon's portfolio for dealing with climate change, fire and drought impacts to other hatcheries. Leaburg is one of Oregon's largest hatcheries, with 40 raceways and the capacity to rear 285,000 pounds of fish. Leaburg is a well-built and maintained facility, with an excellent water supply in close proximity to some of the State's highest demand fisheries. ODFW and the Corps hold a total of 100 cubic feet per second in water rights – one of the largest water right holdings in Oregon's hatchery system, providing a year-round supply of cool, high-quality water, an irreplaceable asset as Oregon deals with the effects of climate change and drought. In the absence of Leaburg Hatchery, Oregon will have little to no capacity to mitigate for natural and human-caused events that continually put hatchery production and the fisheries they support at risk. The production and release of hatchery fish from Leaburg Hatchery is managed to ensure they do not hinder native fish recovery efforts within the Willamette basin. As such, the programs are approved by the National Marine Fisheries Service. Both sport and commercial fishers benefit from the current production at Leaburg, with the potential for additional benefits if the unused capacity at Leaburg is used in the future. While there are other hatcheries nearby, all are owned and operated by the Corps under contract to ODFW; there is no surplus capacity at these facilities and the Corps controls their use.

If the transfer is approved by the Fish and Wildlife Commission, the state would be acquiring Leaburg from the federal government at little to no cost. Finding permanent operations funding and taking over Leaburg Hatchery provides Oregon with unique opportunities to improve fishing, add flexibility within the hatchery system, and contribute to local economies.

ODFW estimates cost for current production at \$1.74M per biennium. ODFW would continue to produce 100,000 trophy trout and 260,000 spring Chinook smolts for release in Willamette basin waters annually.

Transfer Process

Transfer of ownership will require completion of several steps consistent with requirements of the Department of Administrative Services (DAS) property acquisition process, as follows:

- DAS Acquisition Notification and Futile Act Request: Per OAR 125-045-0221, State Agencies are required to notify DAS of the intent to acquire property. This has yet to occur but can be initiated at any time.
- Completion of due diligence:
 1. Appraisal: Pursuant to Oregon Administrative Rule (OAR) 125-045-0215 all property is required to be appraised prior to being acquired by the State. However,

ODFW Realty is working with DAS on the applicability of the appraisal requirements and whether they will apply in this instance.

2. Environmental Site Assessment (ESA): Typically, ODFW initiates an ESA on all properties prior to acquisition to ensure that risks associated with the property are known and at an acceptable level. In this case, ODFW knows the property well due to its long-term operation of the facility, therefore an ESA will likely not be needed. If deemed necessary, a contractor can be hired to perform the ESA, and this process could be initiated at any time.
 3. Public Lands Advisory Committee (PLAC) Approval: As required by OAR 125-045-0250, all lands valued at greater than \$100,000 are required to be approved by PLAC prior to acquisition or disposition of such property. This process has not been initiated but will be upon completion of steps 1 and 2 above.
- DAS Approval: Once all steps above have been completed, the DAS Director provides written consent of property acquisition as required by OAR 125-045-0216.

In addition to the process outlined above, ODFW is evaluating the impact of other events within the basin that have a bearing on the operation and long-term sustainability of Leaburg hatchery. Specifically, the ongoing issues with Leaburg canal and current closure of nearby McKenzie hatchery need to be resolved prior to the State taking ownership of Leaburg Hatchery. This is likely to be a multi-year (8 to 10+ year) process.

By statute all ODFW property acquisitions must be approved by the Oregon Fish and Wildlife Commission (OFWC). Once the process outlined above has been completed, ODFW staff will present the acquisition of Leaburg Hatchery to the OFWC for consideration. If approval is received, the remaining steps are to complete the transaction process by closing escrow, recording documents, and completing the transfer with Lane County.

Once the appraisal question is addressed, ODFW will initiate the processes above, and complete transfer of the property if approved and assuming resolution of issues related to Leaburg canal and McKenzie hatchery are addressed.

Budget Note: Rock Creek Hatchery

Background

Rock Creek hatchery is located near the confluence of Rock Creek and the North Umpqua River on 26.5 acres. The hatchery provides a significant recreational fishing opportunity in the Umpqua basin. In SW Oregon, angler direct spending contributes \$105 M to local, largely rural economies and directly supports close to 1,000 jobs. Additionally, this spending indirectly supports many more local jobs in the tourism and service/hospitality industries¹.

Rock Creek hatchery is primarily funded with a combination of General and Other funds totaling \$1,400,000 in 2021-2023. Douglas County provides a small funding allocation (\$26K), as part of a mitigation responsibility for Galesville Project which supplies hydroelectricity (FERC License

¹ Values based on a 2021 study by Earth Economics: <https://industry.traveloregon.com/resources/research/oregon-outdoor-recreation-economic-impact-study/>

7161). Pacific Corp also provides a small funding allocation (~\$41K), as part of their catchable trout mitigation program for hydro projects on the North Umpqua.

Rock Creek hatchery also contains ROCK-ED Outdoor Education Center. Built in 2012, as a cooperative nonprofit project through the Joe Merchep Umpqua River Foundation, the 1,300-square-foot, one-room schoolhouse features a large classroom, a display area, a 200-gallon fish tank and a covered deck overlooking a pond. This facility is used by ODFW and the local community to provide outdoor education for school-age children and other community programs.

The Archie Creek fire started on or about September 8, 2020. The fire burned approximately 131,542 acres including the 26.5 acres of Rock Creek Hatchery. The majority of the hatchery, including staff homes, were a complete loss. Fortunately, the ROCK-ED Outdoor Education Center was left intact.

The fire resulted in a loss of nearly 750,000 smolts. A few coho fingerlings and adults survived. The adult fish were transferred to Cole Rivers hatchery for future production. The losses of smolts will have a significant impact on future fisheries and brood stock collections in 2023 and 2024. Despite these losses, Rock Creek hatchery will have good adult returns for the next two years. There is risk to the fishery that if modest releases are not maintained while the rebuild occurs, there is potential for the collapse of the brood stock needed to sustain future fish returns.

Rebuild Objectives, Options & Due Diligence

A rough cost estimate to rebuild the facilities at Rock Creek is \$25.9 million. ODFW is actively pursuing insurance claims for all State property through DAS Risk Management for the wildfire damages. The department has been in bi-weekly meetings with both insurance and FEMA throughout 2021. The first insurance payment of \$250,000 was issued in July 2021, and we continue to work with insurance and excess insurance carriers on completing payments as needed, and on a settlement for Rock Creek hatchery. ODFW received approval from FEMA for the reimbursement of approved equipment and items lost in the fire at Rock Creek hatchery, but utilization of these funds has not yet occurred as we are still working on details associated with the State insurance settlement. We anticipate that negotiations and discussions will be ongoing with both insurance and FEMA through 2022.

For this and other reasons, rebuild of any facilities (except temporary) at Rock Creek is still some time away. The department early on outlined a plan to pull together a range of information, including estimated funds from insurance, build option packages, and an assessment of likely climate change impacts to share with the public, and to collect feedback that will inform decision-making about future investments.

In considering rebuild options, it is important to note that maintaining programs at Rock Creek has been a challenge for a number of years, even before the fire, as a result of temperature and disease issues, both onsite and recently offsite. Summer water temperatures at the Rock Creek intake routinely exceed 65°F in summer. These temperatures represent a stressor to any salmonids rearing at the hatchery during this time. Additionally, the high temperatures exacerbate the disease issues within the hatchery. Temperature and disease issues will be exacerbated during the coming decades both as a result of climate change and the recent fires.

As a result of the damage incurred during the fire, the department must consider how best to rebuild the various hatchery programs in a way that is sustainable long term. The rebuild may involve investment in infrastructure at the existing site and/or involve investment at other sites to address the ongoing challenges identified above.

The rebuild will be guided by the following objectives:

1. Ensure the continuation of quality trout, salmon, and steelhead fisheries within the Umpqua basin, consistent with commitments in the Coastal Multi-species Plan,
2. Ensure infrastructure is available in the event a conservation program is needed to supplement wild runs,
3. Address the pre-existing challenges (disease, temperature) at the facility that have/will challenge the department's ability to meet Objective 1, even pre-fire, and
4. Ensure the department maximizes opportunities to rebuild these programs in a way that informs how to maintain a viable hatchery system in the face of climate change (technology) and is consistent with a longer-term plan to address the statewide challenge of climate change (hatchery system) as directed in the Oregon Fish and Wildlife Commission Climate and Ocean Change Policy adopted in 2020.

These objectives will be considered in light of an overarching need to ensure that hatchery operations pose minimal risk to native populations. ODFW's hatchery system has undergone considerable reform to ensure best practices are implemented at each of our facilities. Each program is governed by several overarching policies including the Native Fish Conservation Policy, the Hatchery Management Policy, and the Fish Health Management Policy. Additionally, where hatchery fish are released into waters with Endangered Species Act listed species, ODFW programs are guided by Hatchery and Genetic Management Plans that are approved by the National Marine Fisheries Service. ODFW's hatcheries are also periodically reviewed by the congressionally appointed Hatchery Scientific Review Group to ensure adherence to best practices.

Prior to the fire, Rock Creek hatchery program and facilities included five staff, five houses, a shop/office/hatch house facility, an education center/office, and an adult trap and passage facility.

To date, four options have been identified absent a final insurance estimate. Two of these options look to utilize infrastructure at Cole Rivers and Bandon hatcheries and fit within a longer-term plan to address the existing and future (climate change) challenges within the hatchery system.

Option 1: Close facility and invest funds at other hatchery facilities

Option 2: Utilize facility as a collection and acclimation site only (spawning, incubation and rearing done off site and requiring investment off site)

Option 3: Utilize facility for adult collection, incubation, and juvenile acclimation. Transfer summer rearing function to Cole Rivers hatchery (requires additional investment at Cole Rivers and/or Bandon hatchery)

Option 4: Complete rebuild of lost facilities and addition of climate resilient infrastructure (chillers, treatment, etc.).

To date, the following due diligence efforts have occurred:

- Contracted for an archeological survey at Rock Creek hatchery (report due in spring 2022).
- Received estimates for replacement value for all structures at Rock Creek, but there remains uncertainty about a total settlement and about what value might be reimbursed if functionality is replaced offsite.
- Completed a preliminary scoping of potential options.
- Initiated a climate resilience analysis that includes the following components:
 - Staff analysis of current and future stream temps & flows, disease outlook, water rights and availability (complete).
 - Contractor assessment of climate vulnerability and potential solutions (production vs infrastructure) for select facilities, including Rock Creek. (Request for Proposals issued; anticipate awarding contract in February 2022).

Action Requested

Oregon Department of Fish and Wildlife requests acknowledgement of receipt of this report to the Joint Committee on Ways and Means during the 2022 regular session providing an update on its due diligence around potentially assuming ownership of Leaburg Hatchery and around rebuilding Rock Creek Hatchery.

Legislation Affected

No legislation is affected with this request.

Sincerely,



Curtis E. Melcher
Director