



Oregon

Kate Brown, Governor

Department of Fish and Wildlife

Fish Division
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January 21, 2021

Chad and Michele Engle
37095 Cottonwood Rd.
Monument OR, 97864

Greg Hill
Monument SWCD
P.O. Box 95/311 Wilson St.
Monument OR, 97864



RE: Fish Passage Authorization (PA-06-0175) Cottonwood Creek roughened channel

Mr. and Mrs. Engle,

The Oregon Dept of Fish & Wildlife (ODFW) Fish Passage Program has reviewed the design plans developed to assist you, as the owner, with implementation of the Cottonwood Creek passage project located at your point of water diversion. The scope of work is to construct a roughened channel through the use of constructed rock weirs and instream fill for channel restoration. Work associated within the channel will consist of excavation, site grading, subgrade preparation, installing stream simulation material and rock weirs, and site cleanup.

This action has triggered the state's fish passage rules and regulations. ODFW has determined the design plans are consistent with the state's criteria, as defined in OAR 635-412-0035 (1), (2), (8), and (10) and therefore approve the project as required by Oregon fish passage law (ORS 509.585)

The ODFW fish passage authorization (PA-06-0175) 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 complete during the appropriate ODFW in-water work period from July 15 to August 31.
2. Pursuant to OAR 635-412-0035 (10e) fish rescue and salvage shall be performed prior to commencement of any in-water work, including temporary work area isolation and block netting.
3. As per ORS 509.601, you as the owner, or your designee 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, e.g. redband trout and steelhead, between the fish passage design flows (5% and 95% exceedance flows) through the various rock weirs and channel dimensions of the project.

4. Crest elevations shall be no greater than six inch height differential between adjacent crest elevations of rock weir or boulder buttresses.
5. Failure to maintain fish passage in perpetuity at these locations and for the duration of this approval shall constitute a violation of this approval and applicable fish passage laws (ORS 509.585 and 509.601) administered by ODFW.
6. Annual monitoring and reporting on the effectiveness of fish passage is required for these projects. This shall entail monitoring, by a qualified biologist, to determine whether or not project and its sub-components function as they were designed to function. Monitoring reports shall report on the effectiveness of fish passage of native migratory fish at a variety of fish passage flows when these fish are migrating through the project areas. Monitoring and reporting shall coincide with the time of the year when adult and juvenile fish species are migrating through the project areas. In addition to the monitoring and reporting proposed as part of the project information, these monitoring and reporting efforts shall also consist of a summary of the fish passage conditions and fish passage performance with particular emphasis on flow velocities, water depths and the volitional unimpeded passage of native migratory fish during the appropriate fish passage design flows.
7. Monitoring and reporting shall be based on visual observations, established photo points, flow velocity and water depth characteristics, or other means; particularly with regards to fish passage conditions and fish passage performance through the project area(s). Monitoring reports shall be submitted annually to the ODFW Fish Passage Program Coordinator and the ODFW John Day Watershed District Fish Biologist for a period of 2 years – post construction (As-built plans plus year 1 and year 2 post construction).
8. If monitoring by you, your designee, or ODFW indicates that volitional fish passage is questionable or not provided, you in consultation with the Department, shall determine the cause and, during a work period approved by ODFW shall modify the structures 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.
9. ODFW shall be allowed to inspect the project at reasonable times for the duration of this approval. Unless prompted by emergency or other exigent circumstances, inspection shall be limited to regular and usual business hours, including weekends.
10. It is your responsibility to comply with all necessary and required local, county, state, and federal approvals and permits.
11. This approval does not authorize approval for take of a federally listed species or authorization of programmatic approvals by the federal government.

Please retain this fish passage authorization for your records, as this documents ODFW's approval of fish passage for the Cottonwood Creek project located at your point of water diversion. This approval is solely for the purpose of fulfilling Oregon fish passage statutory requirements and responsibilities administered by the Oregon Fish and Wildlife Commission or the Department and does not satisfy any other Department, federal, state, or local laws, rules or regulations.

Respectfully,

Kregg Smith

Kregg Smith
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Cc: Stephan Charette, John Day District Fish Biologist
Jadon Herron, Anderson Perry and Associates, Inc.
Alan Ritchey, ODFW Fish Screen and Passage Manager
Greg Apke, ODFW Fish Passage Coordinator
Project Files (PA-06-0175)