

APPENDIX C

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is made and entered into by and between the Oregon Department Of Transportation (ODOT), Oregon Department of Fish and Wildlife (ODFW), Oregon Department of Agriculture (ODA), Division of State Lands (DSL), the Federal Highway Administration (FHWA), and the Oregon Department of Forestry (ODF).

WITNESSETH

RECITALS

The purpose of this Memorandum of Understanding is to demonstrate agreement to use the provided set of criteria and guidelines when designing or consulting on projects which may affect fish passage. By agreeing to these criteria and guidelines, individual regulatory project approvals regarding fish passage issues will be expedited.

Whereas:

1. ORS 196.800-196.990 and ORS 390.805-390-925 require landowners, including government entities, to provide for fish passage at in-channel structures where game, food and anadromous fish species are present. By statute, the Fish and Wildlife Commission (FWC) and the Oregon Department of Fish and Wildlife (ODFW) are responsible for periodic inspection for blockages;
- and**
2. ORS 541.605 - 541.695 and 541.990 require a permit for the removal, filling or movement by artificial means (alteration) of material within the bed or banks of the waters of the state unless otherwise exempted. Permits are issued for these activities under the authority of the Director of the Division of State Lands (DSL);
- and**
3. ODOT, ODFW, ODF, National Marine Fisheries Service (NMFS), and Federal Highway Administration (FHWA) have jointly developed and approved the required criteria and guidelines to follow when designing for fish passage on any construction project. These criteria and guidelines attached hereto and marked Exhibit 'A', are, by this reference, made a part hereof.
- and**
4. If said criteria and guidelines for fish passage are followed in project design and construction, the regulatory review and approval times by ODFW and DSL will be substantially reduced.

Memo of Understanding

Oregon Department of Transportation
Oregon Department of Fish and Wildlife
Oregon Department of Agriculture
Division of State Lands
Oregon Department of Forestry
Federal Highway Administration

Therefore:

1. The parties agree:

- a) To adopt said criteria and guidelines set forth in Exhibit A when designing, constructing and consulting on projects affecting fish passage;

2. ODOT and ODFW agree:

- a) To enter into an Intergovernmental Agreement. This agreement will specify how ODFW will provide technical assistance on project or maintenance related issues that may impact salmonids or their habitat, with such assistance subject to ODFW funds available for such purposes.
- b) Said technical assistance agreement shall be in effect for three years at which time ODOT will review the need for additional technical services from ODFW and shall enter into a supplemental agreement if needed.

3. ODFW and DSL agree:

- a) To expedite "Removal-Fill" permit application review and approval for construction projects if the implementing party is following the approved set of fish passage criteria and guidelines shown in Exhibit A,

and

- b) Agree that interim guidance by Oregon Department of Forestry (see Exhibit B attached hereto) meet the requirements of Exhibit A and are sufficient in the context of meeting fish passage requirements on state and private forest lands under the authority of the Forest Practices Act.

Memo of Understanding

Oregon Department of Transportation
Oregon Department of Fish and Wildlife
Oregon Department of Agriculture
Division of State Lands
Oregon Department of Forestry
Federal Highway Administration

This Memorandum of Understanding will be reviewed, and revised if necessary, every five years by all parties. No revision shall be binding to any party without the written consent of the party.

The terms of this Memorandum of Understanding may be terminated by mutual consent of the parties or by written notice from any party to the others within thirty days.

Tom Lulay, Technical Services Branch Mgr.
Oregon Department of Transportation

Date_____

Rudolph A. Rosen, Director
Oregon Department of Fish and Wildlife

Date_____

Paul R. Cleary, Director
Division of State Lands

Date_____

James E. Brown, State Forester
Department of Forestry

Date_____

Phil Ward, Asst. Director
Oregon Department of Agriculture

Date_____

Hank Honeywell, Div. Administrator
Federal Highway Administration

Date_____