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Formerly Oregon Natural Resources Council (ONRC)

Critical Stream Flows for threatened Coho Salmon not being met by BOR in the Rogue River Basin

The Bureau of Reclamation (BOR) authorizes and permits the diversion of water from the Klamath River Basin to the Rogue River Basin through its Rogue River Basin Project Operations. The Project also authorizes all storage and releases of this water. Two main tributaries of the Rogue River watershed are affected by these actions. The first, Emigrant/Bear Creek, essentially drains the southern watershed of the Rogue River. The second, Little Butte Creek essentially drains the middle watershed of the Rogue River.

Section 7(a)(2) of the Endangered Species Act requires every Federal agency, in consultation with the expert federal wildlife agency (in this case) with the National Marine Fisheries Service (NMFS), to insure that any action it authorizes, funds or carries out, is not likely to jeopardize the continued existence of any listed species or results in the destruction or adverse modification of it's the specie's critical habitat.

While the Southern Oregon and Northern California Coasts (SONCC) Ecological Significant Unit of Coho Salmon (SONCC Salmon) was listed in 1997 as threatened under the Endangered Species Act, **this consultation affecting Rogue River SONCC salmon has never been fully completed.**

While BOR has not met this basic requirement of the law, equally significantly, Oregon Wild's review since November 2011 of various flow sites in the Rogue Basin demonstrate that BOR is failing to meet the minimum required flows that the National Marine Fisheries Service has previously recommended as critical for the survival of these threatened salmon. Thus, the objections that Oregon Wild is raising are not simply based on failure to fulfill the legally required processes, but are also based on physical evidence, supported by fisheries biologists, demonstrating that threatened salmon are presently being harmed.

Specifically, this data shows that the Bureau of Reclamation (BOR) has not acted properly to insure that instream flows at three different Rogue Valley locations meet the best estimated minimum flows ("BEMFs").

Based on BOR's monitoring data, deficient flows are continuing at the following locations:

1. Emigrant Creek downstream of Emigrant Dam;

2. Bear Creek[OK] the Phoenix Diversion;
3. Bear Creek Downstream of the Oak Street Diversion and,
4. the South Fork of Little Butte Creek at the Gilkey (GILLO) monitoring station.

The Bureau's actions directly impact three out-of-compliance flows in the Emigrant Creek/ Bear Creek watershed (at the three monitoring stations) significantly affected by release (or non-release) of water from Emigrant Dam. As of mid-November (Nov. 21) Emigrant Lake was 39% full, and thus had storage capacity available to enable increased flows so as not to allow the "take" of threatened Coho Salmon at the Emigrant Creek and Bear Creek sites. However, these critical flows have not been sufficiently provided.

Flows at Emigrant Lake

The manner in which BOR operates and fills Emigrant Lake is especially callous of the necessary salmon flows in Emigrant and Bear Creek. Since Thanksgiving, and through the end of November 2011, flow out of the Lake was 14 cubic feet per second, (cfs), below NMFS best minimum survival flows. In December, these flows went up nominally, but remained over 11 cfs below the NMFS best estimated minimum flow of 25 cfs. The callous element of the flow history is the fact that during this time the Bureau increased the volume of Emigrant Lake by over 96,485,400 cu. ft. In those 37 days, the average increased volume of water per day was just over 2,607,700 cu ft. If released, this water would have increased the Emigrant Creek/ Bear Creek flows by about 30 cfs. Therefore, the Bureau could have met both the minimum flow required for salmon and still stored over 19 cfs in the Lake during December. This trend has continued into January, with flows still remaining over 11 cfs below the minimum flow.

Further, had these minimum flows been released, they would have complemented the flows required in portions of Bear Creek, downstream of the City of Ashland, where the threatened salmon pass those two other required flow stations. These flow stations are at Bear Creek near Ashland Creek and Bear Creek near the Phoenix diversion. For the deficiency of flows near Ashland Creek (downstream of the Oak Street Diversion), while the November flow was generally met because it was 10 cfs lower than the December minimum flow. (25 cfs vs. 35 cfs). The flow in December averaged about 9 cfs below the minimum, except for the last 2 days of the month, where the minimum flow was exceeded. Again the appropriate releases from Ashland Reservoir would have allowed minimum flows to be met throughout the month.

For the downstream Phoenix diversion site on Bear Creek, the story was about the same except that the differences are greater because minimum flows are greater based on a wider river channel at this location. As such, the minimum flows for this location are 40 cfs for November, 55 cfs for December, and, 65 cfs for January. Again, while the late November flow minimum was met, the flow in December averaged about 25 cfs below the minimum flow. As of January 5, 2012, January flows continue to follow the same trend as December, that is the flows remain about 25-35 cfs below minimum salmon flows. The Bureau has made no move to increase flows out of Emigrant Lake to compensate for these deficiencies. Salmon passage is critical during this time, as well

as spawning and incubation needs. Should the Bureau allow Emigrant Lake to remain at its Thanksgiving Day level, all of the required minimum flows, except for possibly the January flows could have been met.

Finally, the Bureau seems to be following a different policy than the last water year when the Bureau allowed Emigrant Lake to drop an additional 4,000 acre feet to about 11,000 acre feet, when it allowed it to begin refilling.

Flows on South Fork of Little Butte Creek even more critical

Of equal concern are the Bureau's actions affecting the flow at the Gilkey (GILO) monitoring station of the South Fork of Little Butte Creek. NMFS says the Little Butte Creek watershed "produces the highest number of SONCC Coho spawners in the upper Rogue basin." Further, the South Fork of Little Butte Creek has been determined by the NMFS to be a critical flow area: "[B]ecause the Little Butte Creek watershed is a core population area for SONCC, "...providing high protection for fish habitat was favored over [other Rogue] project purposes."

While the Bureau's staff has taken the position that their actions do not begin to affect flows on this stream segment until late in the winter when transbasin transfer activities begin, this position is an overly narrow determination of "action" by the Bureau that ignores the species' critical needs. Any retention of water in any of the six diversion dams and other attendant structures (as listed in Oregon Wild's Notice of Intent to Sue) that retain, and thus deny water to the South Fork of Little Butte Creek, must be prohibited. Thus, any water storage in these facilities becomes an ESA take when flows, as shown at the Gilkey (GILO) monitoring station in the South Fork of Little Butte Creek, are less than the NMFS prescribed minimum flows. The BOR's prior Biological Assessment of 2009 further acknowledges periods, primarily in October, when desired and necessary flows for migration have been met.

Furthermore, in the 2009 water year, the Bureau operated both the Dead Indian Creek Collection Canal and the Upper S. Fork Little Butte Collection Canal at times where these canals were transferring over 20 cfs of water in December 2008, when these flows might have otherwise contributed to higher flows in Little Butte Creek.

Since Thanksgiving, flows have been below minimum by over 10 cubic feet per second, (cfs), except for about 18 hours on December 30th, into the early morning of December 31st. In January, NMFS has increased the minimum flow in the S. Fork of Little Butte Creek from 30 cfs to 85 cfs, likely because of rearing and passage needs. Based on current projections, the Bureau will not be likely to meet any of these flows if it allows for storing water in the watershed's diversion facilities.

To correct deficiencies in these streams that NMFS has shown as being so important for the recovery of Coho Salmon, no water should be stored in the multiple diversion related structures in the S. Fork of Little Butte Creek's basin until minimum best science flows are met (as measured at the Gilkey flow monitoring station).

While Oregon Wild is presenting this information to demonstrate the specific facts motivating our concerns, again we leave it to these federal agencies to complete the long awaited and long promised ESA consultation—using the best available science to establish and meet the instream conditions necessary to preserve and recover the Rogue Basin’s threatened Coho Salmon.