US Army Corps
of Engineers®
Walla Walla District

MILL CREEK FLOOD CONTROL PROJECT
OPERATIONS AND MAINTENANCE

DRAFT
ENVIRONMENTAL IMPACT STATEMENT
SUPPLEMENT I

APPENDIXES B-D

May 2018

Draft Mill Creek Project Flood Control Project Operations and Maintenance
Environmental Impact Statement

Appendix B – Mill Creek Fish Presence Timing Report

Purpose and Intent

The U.S. Army Corps of Engineers' (Corps) Mill Creek Project is located approximately 2 miles east of Walla Walla, Washington, and serves to protect the city and surrounding areas from flooding. The Project consists of a diversion dam, a storage reservoir (Bennington Lake), a storage dam, and approximately 1 mile of a 7-mile-long channel. The Mill Creek Flood Control Zone District is responsible for maintaining the rest of the channel. During high water events, the Corps diverts water to Bennington Lake to prevent flooding of Walla Walla.

Mill Creek is used by several species of fish of concern in the Pacific Northwest, including Columbia basin bull trout (*Salvelinus confluentus*), mid-Columbia River steelhead (*Oncorhynchus mykiss*), and spring Chinook salmon (*O. tshawytscha*). Any fish present in Mill Creek near the diversion dam are at risk of becoming entrained in Bennington Lake during a diversion event. As there is no passage from the diversion channel back into Mill Creek, any occurrence of fish diverted from Mill Creek's mainstream into Bennington Lake is considered take.

This report summarizes fish camera detections of bull trout, steelhead, and Chinook salmon in Mill Creek to outline seasonal trends in abundance. The intent is to inform decisions regarding diversion timing and minimize take of bull trout, steelhead, and Chinook salmon.

Methods

PIT tag interrogations from the Mill Creek Intake Dam and Mill Creek Diversion Project PIT antenna arrays were downloaded from the PTAGIS database for the years 2005 to 2016. These interrogations are primarily of juvenile and adult fish tagged in Mill Creek as part of local monitoring efforts conducted by state and tribal agencies, but also include some fish tagged in the Walla Walla and Columbia rivers. 1097 unique detections were recorded over this period.

Cameras were placed at the Mill Creek Diversion Dam Ladder, Mill Creek Division Dam, and Yellowhawk intake between 2004 and 2014. Cameras were recording in all three locations February through July with the following exceptions. Data was collected only at the diversion dam in 2004. Data was collected February through April at the Yellowhawk intake in 2005. Data was collected in May and June at the Division Dam in 2006. There is no Diversion Dam data from 2008. Data was only collected for February and March at the Diversion Dam and Yellowhawk intake and February through April at the Division Dam in 2013. There is no Diversion Dam or Yellowhawk intake data from 2014 and data was collected only in February and March and the Division Dam for that year.

Diversion events were compiled from the Water Control Manual for Mill Creek Flood Control Project (2006) and standardized to diversion days. Diversion days are calculated as the duration of flows requiring a regulation action (greater than 1400 cfs) in hours divided by 24.

Results

Over the last 72 years the majority of the diversion events occurred during the winter months January, February, and December (Table 1). January had nearly double the amount of diversion days as February or December. Natural peak flow did exceed 1,400 cubic feet per second (cfs) in March 2009, but there was no diversion event. A policy change was in effect during that time and water was not diverted until flow exceeded 2500 cfs.

Month	Sum of Average of Natural Peak Flow (cfs)	Sum of Average of Regulated Peak Flow (cfs)	Sum of Total Duration over 1,400 cfs (hours)
Jan	21806	16430	317
Feb	20051	14849	162
Mar	1400	0	5
Apr	0	0	0
May	0	0	0
Jun	0	0	0
Jul	0	0	0
Aug	0	0	0
Sep	0	0	0
Oct	0	0	0
Nov	1822	1750	3
Dec	13751	10920	131

Table 1. Flood Events Requiring Regulation 1945 – 2017

PIT Interrogations

PIT interrogations were aggregated by month of detection for the 12 year period (Fig. 1). Detections peak during the month of May, with a total of 249 unique PIT tag detections during May from 2005 to 2016. Other months with frequent detections were June, November, December, and July with 170, 147, 103, and 101 detections, respectively.

Bull trout were the most commonly detected species with a total of 460 detections, 247 adults and 213 juveniles. Bull trout were the most steadily detected species with adults detected in Mill Creek during all months of the year. Juvenile bull trout were detected in all months except February and September, but were most common May through July. Numbers for adult bull trout peaked in June with 78 detections; juvenile numbers peaked in November with 43 detections.

Spring chinook salmon were detected nearly as frequently as bull trout, with 411 total detections. 58 adult Chinook salmon and 353 juveniles were interrogated in Mill Creek from 2005 to 2016. Numbers for both age groups peaked in the month of May with 28 total adult detections and 113 juvenile detections. Juvenile spring Chinook salmon were detected in Mill Creek in all months of the year except July, August, and September.

A total of 226 steelhead were detected in Mill Creek from 2005 to 2016, 102 adults and 124 juveniles. Steelhead detections peaked for both age groups in the month of April where

there were 34 adult detections and 16 juvenile detections. Adult steelhead were detected in all months of the year except October, juvenile steelhead were detected in all months except August and September.

Camera Observations

Camera detections were compiled by month of observation for the 10 year period. Detections peak during the month of May, with a total of 302 bull trout, steelhead, and Chinook salmon observed. Other months with frequent detections were March, April, and June with 188, 280, and 171 observations, respectively (Fig. 2).

Total number of fish observed varied by location. 443 fish were observed at the Diversion Dam, 355 fish were observed at the Division Dam, and 232 fish were observed at the Yellowhawk intake over this period.

Steelhead were the most commonly detected species with a total of 569 observations. Steelhead were also the most steadily detected species in Mill Creek during all months sampled. Steelhead observations peaked at all three locations between March and April with a total of 422 steelhead observed for those months combined.

Kelt abundance peaked in May with 48 fish observed. The highest number of kelt were observed at the Yellowhawk intake with a total of 36 kelts recorded (Fig. 3). The fewest number of kelt were observed at the Diversion Dam with a total of 6 fish recorded (Fig. 4). Steelhead observed swimming downstream were recorded as kelt. Steelhead smolt were observed only one time during the 10 year study at the Division Dam in April 2009 (Fig. 5).

Chinook salmon were the next most frequently observed fish, with 267 observations. Chinook salmon observations peaked in May and June with 132 and 111 observations respectively. A total of 117 bull trout were observed in Mill Creek from 2004 to 2014. Bull trout observations peaked in June with 52 recorded.

The highest number of Chinook, steelhead, and bull trout were observed at the Diversion Dam with 150, 217, and 70 observations, respectively. Chinook observations peaked at different times between the three locations. Chinook observations peaked at the Diversion and Division Dams in May with 66 and 65 fish, respectively; while Chinook observations peaked at the Yellowhawk intake in June with 22 salmon observed.

Combined Results

Steelhead PIT interrogations peaked in April with 50 fish detections. Steelhead camera observations also peaked in April with 242 fish recorded (Figs. 1 and 2).

Chinook salmon PIT interrogations peaked in May with 141 detections. Chinook camera observations also peaked in May with 132 fish recorded.

Bull trout PIT interrogations peaked in June with 111 detections. Bull trout Camera observations also peaked in June with 52 fish recorded.

Discussion

Both methods indicate bull trout, steelhead, and Chinook salmon abundance is highest in Mill Creek March through June. PIT Interrogations indicate a second peak in abundance, consisting mostly of juveniles, October through November. Over the last 72 years the majority of the diversion events occurred during the winter months January, February, and December.

PIT Interrogations were collected year round for a 12 year period while Camera observations were recorded only during the months of February through July (with noted exceptions) for a 10 year period. PIT interrogations and camera observations follow similar trends. Steelhead abundance peaks first between March and May. Chinook salmon abundance peaks between May and June and bull trout abundance peaks in June.

Bull trout were the most commonly detected fish using PIT interrogations. Bull trout were also the most steadily detected species in Mill Creek during all months of the year; however, steelhead were the most frequently observed species on camera. Chinook salmon were the second most detected species by both PIT interrogations and Camera observations.

Steelhead abundance peaked in April while kelt abundance peaked in May suggesting steelhead may spawn in Mill Creek between those months.

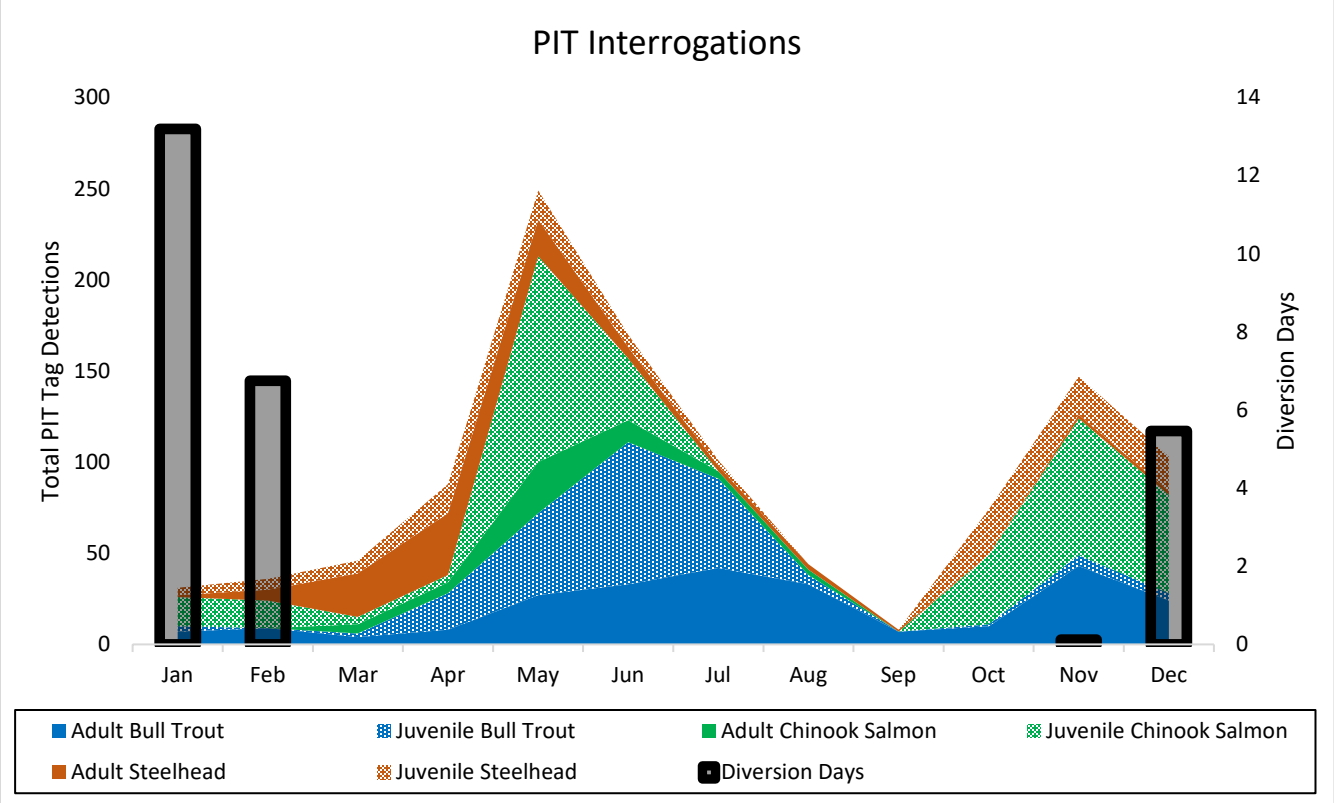


Figure 1. Number of Diversion Days by month between 1945 - 2017 overlaying spring Chinook salmon, summer steelhead, and bull trout abundance

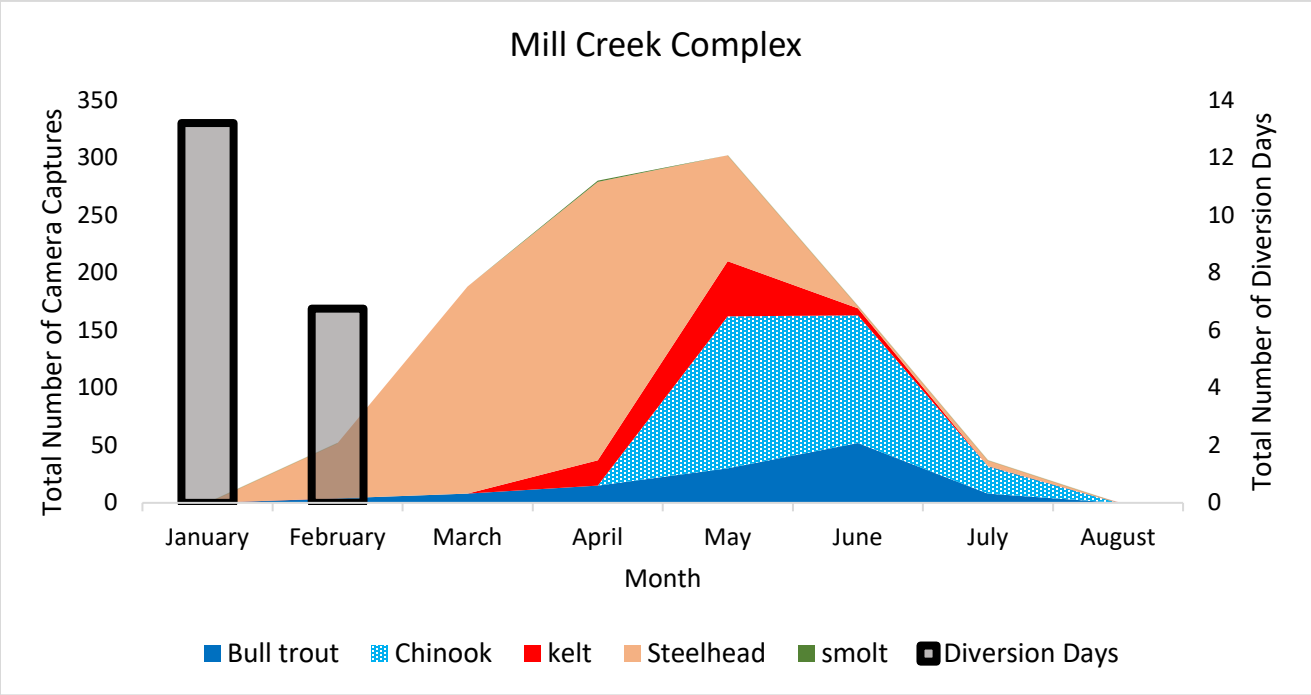


Figure 2. Number of Diversion Days by month between 1945 - 2017 overlaying bull trout, steelhead, kelt, steelhead smolt, and Chinook salmon abundance for the Diversion Dam, Division Dam, and Yellowhawk intake combined

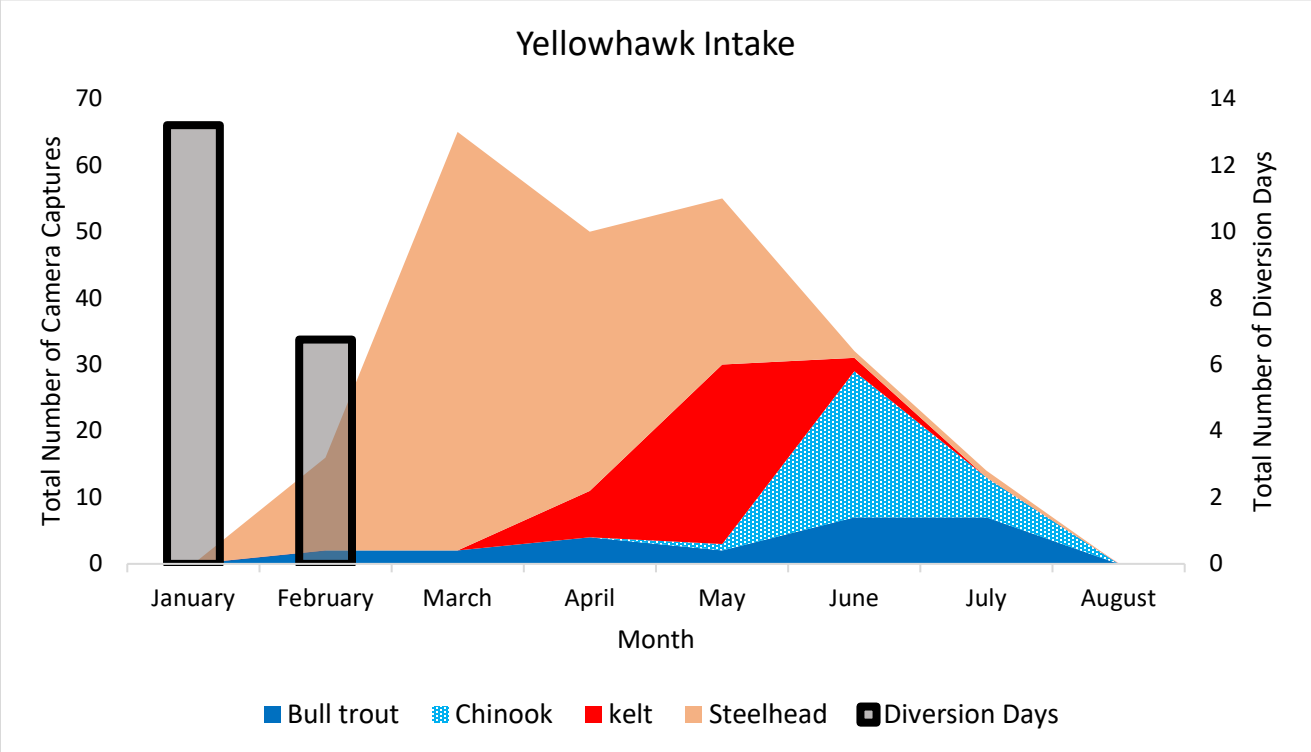


Figure 3. Number of Diversion Days by month between 1945 - 2017 overlaying bull trout, steelhead, kelt, and Chinook salmon abundance for the Yellowhawk intake

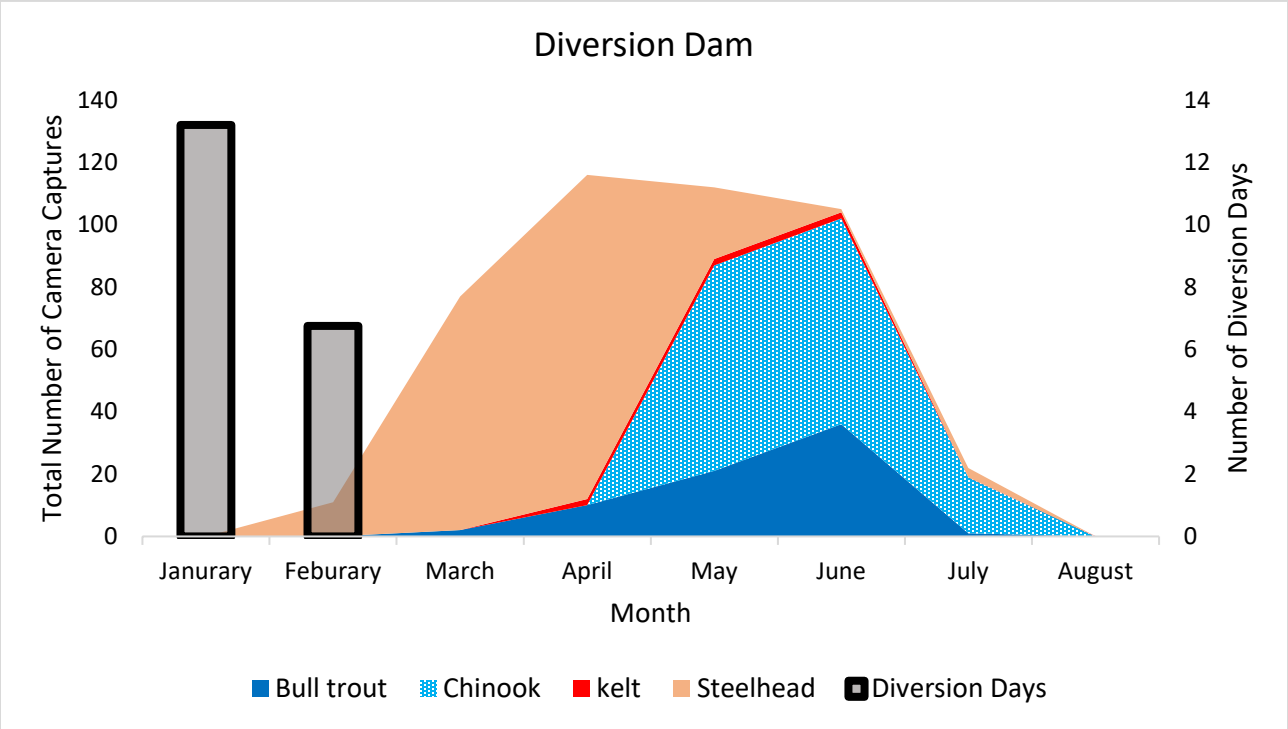


Figure 4. Number of Diversion Days by month between 1945 - 2017 overlaying bull trout, steelhead, kelt, and Chinook salmon abundance for the Diversion Dam

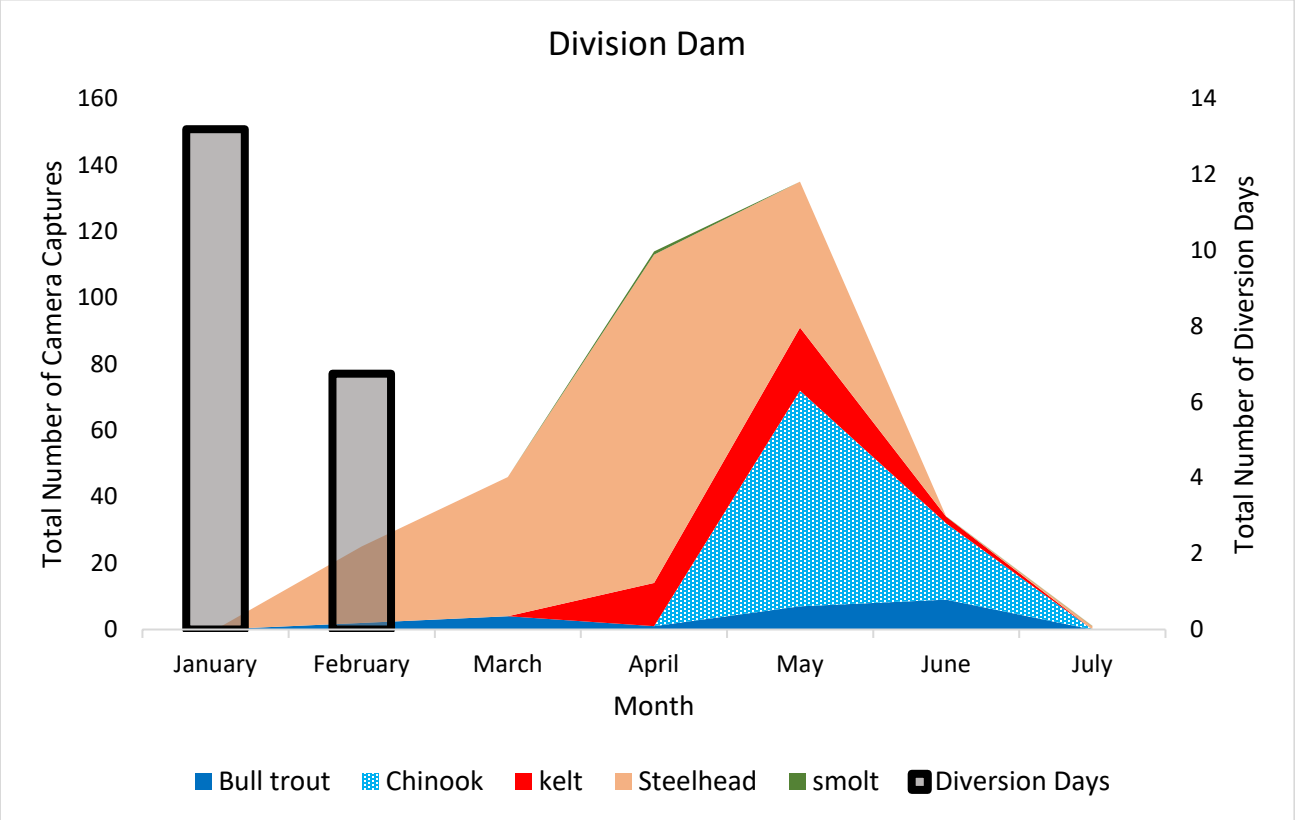


Figure 5. Number of Diversion Days by month between 1945 - 2017 overlaying bull trout, steelhead, kelt, steelhead smolt, and Chinook salmon abundance at the Division Dam

References

Water Control Manual for Mill Creek Flood Control Project. 2006. U.S. Army Corps of Engineers, Walla Walla District, Walla Walla, WA.

THIS PAGE INTENTIONALLY LEFT BLANK

Draft Mill Creek Project Flood Control Project Operations and Maintenance
Environmental Impact Statement

Appendix C – Endangered Species Act Biological Assessment (under development - not included in this draft)

Draft Mill Creek Project Flood Control Project Operations and Maintenance
Environmental Impact Statement

Appendix D – Public Scoping Comments

Confederated Tribes *of the*
Umatilla Indian Reservation
Department of Natural Resources
Administration

46411 Timíne Way
Pendleton, OR 97801

www.ctuir.org ericquaempts@ctuir.org
Phone: 541-276-3165 Fax: 541-276-3095

June 12, 2107

U.S. Army Corps of Engineers
Walla Walla District
ATTN: PPL-C, MCL O&M SEIS
201 North 3rd Avenue
Walla Walla, WA 99362-1876
http://www.nww.usace.army.mil/EnvironmentalComplianceComment/

Transmitted electronically to: NEPANWW@usace.army.mil

Re: MCL O&M SEIS, Scoping Comments for Mill Creek Supplemental Environmental Impact Statement

To Whom It May Concern:

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Department of Natural Resources (DNR) offers the following comments on the Mill Creek Supplemental Environmental Impact Statement (SEIS). Mill Creek, a tributary of the Walla Walla River, is within the CTUIR's ceded territory. Its waters and the fish it supports are resources secured by the Treaty of 1855 between the United States and the Cayuse, Umatilla, and Walla Walla tribes that now constitute the CTUIR. We have rights to and interests in those resources, and the U.S. Army Corps of Engineers (Corps) has a Trust Responsibility—a recognized legal obligation—to honor and protect them. Our comments are intended to assist you in fulfilling your Trust Responsibility by suggesting how you may most effectively conduct an assessment and analysis of Mill Creek and the potential options for addressing its many environmental problems—a number of which are the result of past and ongoing Corps actions.

The CTUIR DNR has worked to improve Mill Creek for several decades. We appreciate that the Corps acknowledges the need to reexamine its efforts regarding Mill Creek, and specifically to update its initial, now antiquated, Environmental Impact Statement (EIS) completed over forty years ago. Many conditions and circumstances associated with Mill Creek have changed significantly since completion of the original EIS, some of which are highlighted below. Given the extended period since this EIS, and these numerous changes, the CTUIR DNR believes that a new, full, and comprehensive Environmental Impact Statement (EIS) needs to be conducted. Absent what might be superficially labeled as a "new" EIS, a Supplemental EIS must be rigorous, extensive, and no less full and comprehensive as an entirely new one.

Resident and anadromous fish species (bull trout, steelhead) in the Walla Walla River watershed, including Mill Creek, have been listed under the federal Endangered Species Act for almost two decades. The mortality of these species is a consequence of Mill Creek projects and operations and mortality will continue until the Corps takes responsible actions[1]

[1] The Corps is not authorized to kill—"take"—such species; it has no incidental take statement from NOAA Fisheries. It has in fact, received a Jeopardy Opinion from that agency, and has so far refused to institute mandated Reasonable and Prudent Alternatives (RPAs) to mitigate for such jeopardy, based on arguments that we do not accept.

The CTUIR DNR does not believe that this Supplemental EIS is a necessary prerequisite for the Corps to take immediate steps to improve fish passage and install screens to protect listed species from impacts caused by water diversions from Bennington and Division Works dams. We are concerned that conducting this SEIS at this time will be used as an excuse, or will otherwise act to forestall much needed, long-overdue actions required to halt the take of protected fish and comply with the ESA. Collaborative efforts by the CTUIR, the Washington Department of Fish and Wildlife (WDFW), NOAA Fisheries, and other federal, state, and local entities have been underway for many years to seek improvements for Mill Creek fish passage/habitat issues within the Corps-managed footprint, and the SEIS/EIS should in no way undermine or delay them.

We organize our comments around the subjects of fish passage, water quality, and EIS outline improvements.

Fish Passage Improvements

While the Corps proceeds with this SEIS/EIS, the CTUIR DNR encourages the agency to simultaneously move ahead with measures to ameliorate the multiple ongoing harms that the Corps Walla Walla District Mill Creek Pproject inflicts on fish populations and water quality. In support, we and others recognize the importance of improving fish passage:

1. The 90% designs exist for both Bennington and Division Works fish passage improvement projects;
2. Following the failure to get these improvements done under WDFW sponsorship, the Corps committed to use O&M authority to fund them starting in 2008;
3. Since 2008, the CTUIR has met with Corps Walla Walla District leadership annually and reminded them of the urgency of this situation and the need for the Corps to prioritize funding for these passage improvements;
4. The 2004 Walla Walla Subbasin Plan identified Bennington and Division Works fish passage improvements as priorities;
5. The 2012 NOAA Fisheries Mid-Columbia Steelhead Recovery Plan identified Bennington and Division Works Dams as imminent threats to fish passage;
6. Letters from NOAA Fisheries to the Corps in 2012 and 2014 identified these passage issues as Mid-Columbia delisting/recovery bottlenecks;
7. Complete assessment and analysis of Mill Creek conditions and potential remedial options is available in the CTUIR's recent Lower Mill Creek Final Habitat and Passage Assessment and Draft Strategic Action Plan (additional study is superfluous);
8. Pursuant to the federal-tribal Fish Accords, the CTUIR has offered BPA cost share if the Corps began implementing improvements;
9. NOAA Fisheries issued a Jeopardy Opinion in 2011 for Corps operations affecting Mill Creek;
10. During low-flow conditions there is well-documented take of ESA-listed fish (fish mortality at Corps-managed facilities); and

11. The Corps appears to have placed greater emphasis on removing vegetation from Mill Creek levees than on addressing the sources of significant fish mortality.

At our May 4, 2017, meeting, CTUIR and Corps staff discussed the distinction between a Supplemental EIS) and a new EIS. Our comments herein are based on the assurances by the Corps that there will be no substantive difference between the level of assessment and analysis regardless of whether the document is designated as an SEIS or an EIS. We note the 1975 document identified as the Mill Creek EIS totals 96 pages, including letters, responses to comments, and appendices. There are but 42 pages of analysis, which under current standards would hardly qualify as an adequate Environmental *Assessment*. Furthermore, as noted above, there have been so many changes in the Basin since 1975 that the document has little to no relevance to current operations. Key changes since 1975 include, but are not limited to:

1. ESA listings and critical habitat designation for steelhead and bull trout;
2. Spring chinook reintroduction;
3. Other impacts to ESA-designated critical habitat;
4. Land ownership changes; and
5. Climate change effects.

An SEIS/EIS, in its chapter on "Affected Environment and Consequences," should include examination and analysis of the impacts of the existing inadequate, non-compliant fish ladders and screens at Bennington Dam and Division Works Dam. Attached to this document is the timeline prepared last year on the history of Bennington Dam ("Summary of Mill Creek Fish Passage/Survival/Habitat Issues and Related Efforts," dated December 2016) as well as letters from the NMFS Regional Salmon Recovery Branch Chief to the Corps regarding priority projects for Mid-Columbia steelhead recovery. These materials describe the history and status of Bennington Dam as a "bottleneck" to recovering ESA-listed fish. The facility is also a primary limiting factor identified in subbasin and recovery plans. As mentioned above, the Dam itself currently causes take of ESA-listed fish through direct mortality, stranding, and/or migration delay.

The Corps constructed hundreds of weirs along Mill Creek causing significant habitat damage and degradation that has only recently become more understood, and the Corps retains ownership of 85 cross-channel weirs which impair floodplain function and directly impair water quality, fish habitat and fish. The SEIS/EIS should include analysis of accelerated Mill Creek channel restoration and weir removal to reduce impacts to fish. The CTUIR has provided the Walla Walla Corps the Lower Mill Creek Final Habitat and Passage Assessment and Draft Strategic Action Plan (Assessment). In the analysis, the SEIS/EIS should review the Assessment and study:

1. Impacts to fish passage and losses to floodplain function for fish rearing from the existence, operations, and maintenance of the Corps project;
2. How passage and channel conditions within the project's footprint act as a bottleneck or barrier, including where such impacts extend upstream and downstream to the mouth of Mill Creek and the Walla Walla River;

3. How Bennington Dam and Mill Creek weirs collectively limit natural recruitment and disposition of sediments and small substrate, boulders, and large wood debris, impacts which also extend beyond the immediate project footprint downstream to the mouth of Mill Creek and the Walla Walla River; and
4. An alternative approach to flood management (preferred by the CTUIR DNR) where levees would be set back or realigned and weirs would be removed consistent with the CTUIR Lower Mill Creek Final Habitat and Passage Assessment and Draft Strategic Action Plan.
5. Improved Bennington Lake storage management and operations that could provide more water to be released to benefit instream flows in the Walla Walla River. This may provide multiple benefits for flood control, recreation and fisheries.

Water Quality

The SEIS/EIS should examine the water quality impacts including, but not limited to, increased water temperatures from Bennington Lake and the Corps dams and weirs on Mill Creek, including:

1. Warmer water from Bennington Lake released down Russel Creek to the Walla Walla River;
2. Increased water temperatures from the pool behind Bennington Dam and the numerous pools behind the cross-channel weirs; and
3. Downstream temperature impacts originating within the Corps project footprint to the mouth of Mill Creek and the Walla Walla River.

EIS Outline Improvements

Finally, the CTUIR DNR suggests the following improvements to the draft outline:

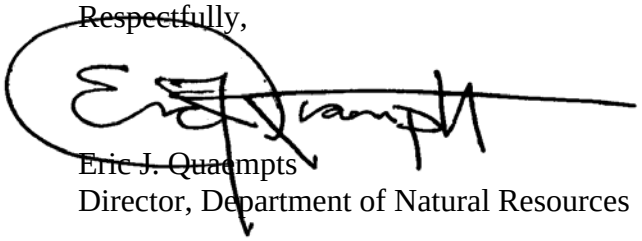
1. In chapter 1, subsections 1.2, 1.3 and 1.4, include a detailed history of the authorized purpose(s) for the Mill Creek project and any additional purposes for which the Corps has operated the project over the last 42 years since the EIS was signed, including legislative and regulatory changes.
2. In chapter 4.12, "Socioeconomics," include tribal subsistence practices that depend on fish from Mill Creek and the Walla Walla Basin;
3. In chapter 5, include a section on tribal treaties as well as executive orders and federal and state statutes (treaties are not federal statutes per se but under the U.S. Constitution are "the supreme Law of the Land" similar to federal statutes);
4. Language in chapter 4.2, regarding "aquatic resources" in the affected environment, should include reference to the *Umatilla River Vision* prepared by the CTUIR DNR and incorporation of the approaches and methodologies it suggests for impacts analysis; and

As mentioned above, we have attached a number of documents pertaining to the CTUIR DNR's long history of work on Mill Creek and Bennington Dam which are identified in the Attachments to this letter with the exception of the Lower Mill Creek Final Habitat and Passage Assessment and Draft Strategic Action Plan [January and May 2017]. This document is too large to attach to

this letter, however it has been provided to Walla Walla Corps staff Cindy Bowen, Chief, Plan Formulation Section and Dean Holocek, Tribal Liaison.

Thank you for your consideration of our scoping comments. The CTUIR, with local, state and federal partners, continues to seek restored Mill Creek ecological functions necessary to achieve water quality standards, delist ESA-listed bull trout and steelhead, and restore and sustain the CTUIR's First Foods and our Treaty-secured rights based on them. We look forward to further engagement and collaboration with you to assist the Corps in carrying out its authorized purposes and obligations.

Respectfully,



Eric J. Quaempts
Director, Department of Natural Resources

EQ: ah, cm, gj, ml

Attachments:

1. Summary of Mill Creek Fish Passage/Survival/Habitat Issues and Related Efforts
2. Umatilla River Vision
3. Letters from NMFS to Corps regarding ESA-listed Mid-Columbia Steelhead [2012 and 2014]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL REVIEW
AND ASSESSMENT

April 27, 2017

Ben Tice, NEPA Coordinator
U.S. Army Corps of Engineers
Walla Walla District, CENWW–PPL–C
201 North Third Avenue
Walla Walla, WA 99362–1876

Dear Mr. Tice:

The U.S. Environmental Protection Agency has reviewed the U.S. Army Corps of Engineers Notice of Intent to Prepare a Supplemental Environmental Impact Statement for Operation and Maintenance of the Mill Creek Flood Control Project in Walla Walla County, Washington (EPA Region 10 Project Number 88-065-COE). Our review of the NOI was conducted in accordance with our responsibilities under the National Environmental Policy Act and Section 309 of the Clean Air Act. Comments included in the enclosure are meant to inform you of issues the EPA believes should be included in your NEPA analysis in order to fully disclose impacts, alternatives, and mitigation options to decision makers and the public.

Our interest in this SEIS is also informed by those designated use impairments identified by the Washington Department of Ecology (Ecology) for waters within or adjacent to the Project, including Mill Creek, Yellowhawk Creek, and Garrison Creek. In addition, actions and alternatives that encourage the recovery of endangered salmonid populations in the Snake and Walla Walla River basins align with the biologic restoration goal of the Clean Water Act (see 33 U.S.C. 1251(a)).

Project Summary
According to the NOI, the SEIS will consider multiple potential activities. These activities include identification and evaluation of: (1) current and future Operation and Maintenance (O&M) activities, (2) structural measures to improve fish passage through the Project, and (3) conservation measures recommended in Biological Opinions (BiOps) set forth by the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) for bull trout and steelhead. We appreciate your efforts in thoughtfully evaluating issues and resources associated with the proposed project.

Scoping Topics
Numerous resources, management topics, or impact areas have been referenced in relation to the Project. These include flood management, water quality, fish passage, aquatic habitat, riparian habitat, pest management and invasive species, and sediment management. We encourage a thorough analysis and disclosure of impacts as information becomes available. Our enclosed comments identify our general expectations for adequate NEPA analyses. We emphasize our support for actions that seek to restore natural hydrologic, geomorphic, water quality, and biological processes as part of project implementation and continued operation.

We believe the consideration of natural processes in developing project alternatives is consistent with: (1) recommendations in the Snake River Salmon Recovery Plan[1], (2) the Department of the Army's Planning Guidance Notebook[2], and (3) Council of Environmental Quality Guidelines[3]. Consideration of ecosystem services, including natural infrastructure and processes, is also the subject of recent directives to executive departments and agencies[4].

We have itemized our comments as follows to assist the COE in preparing the SEIS: Purpose and Need; Range of Alternatives; Water Resources; Threatened and Endangered Species; Tribal Consultation; Historic Resources; Environmental Justice; Adaptive Management, Mitigation and Monitoring; Impact Assessment Methodology and Criteria; Cumulative Effects; Air Quality; and Noxious Weeds, Invasive Plants and Pest Management.

We appreciate the opportunity to provide these scoping comments at this early phase in the process. Questions about our comments may be directed to me at 206-553-1353 or electronically at zell.christopher@epa.gov.

Sincerely,

Chris Zell, NEPA Reviewer
Environmental Review and Sediment Management Unit

Enclosure:

1. EPA Detailed Comments on the Notice of Intent to prepare a Supplemental Environmental Impact Statement for Mill Creek Project Operation and Maintenance

[1] Snake River Salmon Recovery Plan for SE Washington (2011 version). Accessed online March 15, 2017 at http://snakeriverboard.org/wpi/library/recovery-plan/
[2] Department of the Army Regulation 1105-2-100
[3] The updated Principles and Requirements for Federal Investments in Water Resources were issued in March 2013. The final updated Interagency Guidelines were issued December 2014. Accessed online March 15, 2017 at https://obamawhitehouse.archives.gov/sites/default/files/docs/prg_interagency_guidelines_12_2014.pdf
[4] Incorporating Ecosystem Services into Federal Decision Making. Memorandum to Executive Departments and Agencies from Office of the President dated October 7, 2015. Accessed online March 15, 2017 at https://obamawhitehouse.archives.gov/blog/2015/10/07/incorporating-natural-infrastructure-and-ecosystem-services-federal-decision-making

ATTACHMENT A

EPA DETAILED COMMENTS ON THE PROPOSED SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT FOR THE OPERATING AND MAINTENANCE OF THE MILL CREEK PROJECT

Purpose and Need

A Purpose and Need Statement is required in the development of a NEPA EIS. The Purpose and Need will be used to guide development of alternatives and is a fundamental element in developing criteria for selection of alternatives. Where included, goals and objectives, that are related to the project purpose, may also guide alternatives development and the generation of potential screening criteria. The goals and objectives describe other issues, which need to be resolved as part of a successful solution to the problem.

The NEPA CEQ regulations at 40 CFR 1502.13 state that the Purpose and Need Statement "shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." The Purpose is the problem to be solved, the "what" of the proposal. It should be stated as the positive outcome that is expected. The Purpose should not be stated so narrowly that only one pre-selected alternative can fulfill the purpose. It should be stated broadly enough so that a range of reasonable alternatives can be considered and alternatives are not dismissed prematurely. The Need is the "why" of the proposal. The Need should establish evidence that a problem exists, or will exist, based on valid projections, and should be substantiated by facts and, where appropriate, quantitative analyses.

Range of Alternatives

The SEIS should include a range of reasonable alternatives that: (1) meet the stated purpose and need for the project, (2) are responsive to the issues identified during the scoping process, and (3) achieve identified goals and objectives. In addition, 40 CFR 1502.2(f - g) advises that agency resources should not be committed prior to decision and that EIS efforts should not be used to justify decisions already made. The analysis of alternatives in the SEIS should compare the alternatives with respect to how well they respond to the stated need, issues, goals and objectives. This will ensure that the SEIS provides the public and decision-makers with information that sharply defines the issues and identifies a clear basis for choice as required by NEPA.

The CEQ recommends that all reasonable alternatives be considered, even if some of them could be outside the capability of the applicant or the jurisdiction of the agency preparing the SEIS for the proposed project. Such alternatives may be particularly relevant to this Project as balancing the needs of endangered species, flood control, and water quality may require cooperation of multiple agencies and local jurisdictions. The EPA encourages selection of feasible alternatives that: (1) are environmentally sustainable, (2) maximize environmental benefits, and (3) avoid, minimize, and/or otherwise mitigate environmental impacts. More specifically, EPA supports those alternatives that achieve water quality standards, maximize fish passage, and minimize salmonid displacement to Bennington Lake.

In addition, EPA recommends extant monitoring data and information collected by the COE and other relevant agencies be compiled and analyzed when assessing impacts and comparing alternatives. Please refer to the cover letter for our recommendation to consider natural processes in developing the range of alternatives for this project.

Water Resources

To support requirements of the Clean Water Act, the SEIS should identify all waters likely impacted by the project, the nature of the potential impacts, and the specific discharges and pollutants likely to impact those waters. Antidegradation provisions should be considered for pollutant sources that discharge to waters where water quality standards are presently achieved. Impaired waters should not be further degraded. Ecology identifies designated uses in Mill, Yellowhawk, and Garrison Creeks as being impaired for multiple pollutants or parameters[5] including: water temperature, dissolved oxygen, pH, ammonia, bacteria, chlorine, DDT and metabolites, hexachlorobenzene, 4,4'-DDT, 4,4'-DDE, 4,4'-DDD, and instream flow. If pollutant loading to an impaired waterbody is predicted as a result of the Project, the SEIS should include measures to control existing and future sources of pollution. The Walla Walla watershed temperature TMDL[6] targets restoration of natural temperature regimes, prescribes shading allocations, and discusses the benefits of channel restoration for Project waters. The SEIS should disclose how the project will comply with water quality standards and information regarding Total Maximum Daily Load (TMDL) allocations, the waters to which they apply, and pollutants of concern.

For additional pollution prevention concepts, please consider activities listed in the *Office of Federal Activities: Pollution Prevention – Environmental Impact Reduction Checklists for NEPA/309 Reviewers*[7]. Where possible, we encourage the COE to implement watershed restoration activities that compensate for past impacts to water resources. In addition, we encourage the COE to consider changes to watershed hydrology and water quality that may occur in the future. Consistent with our cover letter references regarding natural processes, we believe restoration and maintenance of natural flow regimes[8] could improve the biological integrity of Project waters.

Threatened and Endangered Species

The SEIS should identify the endangered, threatened, candidate plant and animal species, and other sensitive species within the project area. The SEIS should also describe critical habitat; identify impacts the project would have on species and their critical habitats; and how the project would meet all Endangered Species Act (ESA) requirements. We understand COE has consulted with the Services regarding Mid-Columbia River steelhead and Columbia Basin bull trout listed under the ESA. We believe that an adequate EIS includes a biological assessment, a description

---

[5] See EPA-approved Water Quality Assessment 305(b) report and 303(d) list dated July 22, 2016. Accessed online March 15, 2017 at http://www.ecy.wa.gov/programs/wq/303d/currentassessmt.html

[6] See EPA-approved TMDL at http://www.ecy.wa.gov/programs/wq/tmdl/WallaWallaTMDL.html. Accessed online March 15, 2017.

[7] https://www.epa.gov/sites/production/files/2014-08/documents/pollution-prevention-checklist-nepa-pg.pdf. Accessed online March 15, 2017.

[8] Final EPA-USGS Technical Report: Protecting Aquatic Life from Effects of Hydrologic Alteration. USGS Scientific Investigations Report 2016–5164 and EPA Report 822–R–16–007.

of ESA Section 7 consultation with USFWS and NMFS, and thorough analysis and consideration of conservation measures included within issued BiOps.

Tribal Consultation

Government-to-government consultation with federally recognized Indian tribal governments is legally required. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments and the President's executive memorandum of September 22, 2004 are the latest iterations of federal government policy; the latter directed that:

> *Each executive department and agency ... shall continue to ensure to the greatest extent practicable and as permitted by United States law that the agency's working relationship with federally recognized tribal governments fully respects the rights of self-government and self-determination due tribal governments.*

Special attention should be paid to environmental impacts on resources held in trust or treaty resources. Trust resources include those resources held in trust by the U.S. government on a tribe's behalf (such as tribal lands, minerals, and timber). They also include resources in which a tribe has rights that the U.S. government is obligated to protect. For a NEPA analysis, careful consideration should be given to all types of resources and aspects of the environment the tribes may regard as significant.

Historic Resources

Section 106 of the National Historic Preservation Act and its implementing regulations (36 CFR 800) outlines specific procedures to be used in examining potential impacts on historic places. These procedures should be carefully followed in the course of any NEPA analysis. However, EPA advises analysts' focus on Section 106 review requirements may be to the detriment of other kinds of cultural resources that should also be considered in the SEIS. Not all cultural resources are "historic properties" as defined in the National Historic Preservation Act (that is, places included in or eligible for the National Register of Historic Places). Historic resources that are not eligible to be addressed through Section 106 review may be considered under NEPA.

The EPA recommends no Finding of No Significant Impact or Record of Decision be completed until the processes of consultation, analysis, review and documentation required by Section 106 of NHPA has been fully completed. If adverse effects to historic properties are identified, any Memorandum of Agreement developed to resolve these concerns under Section 106 of NHPA should be referenced in the SEIS.

Environmental Justice

In compliance with the NEPA and with Executive Order 12898 on Environmental Justice, actions should be taken to conduct adequate public outreach and participation, ensuring the public understand the possible impacts to their communities and resources. We note the CEQ has developed guidance concerning how to address Environmental Justice in the environmental review process.[9]

[9] Finalized December 10, 1997 and accessed online at https://www.epa.gov/sites/production/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf on March 15, 2017.

The EPA recommends lead agencies address, at a minimum, the following in an EIS:

- Identify low income and minority communities that may be impacted by the project;
- Describe the efforts that have been or will be taken to meaningfully involve and inform affected communities about project decisions and impacts;
- Disclose in the EIS the results of meaningful involvement efforts, such as community identified impacts;
- Evaluate identified project impacts for their potential to disproportionately impact low income or minority communities. Disproportionate impacts should be identified in relationship to a reference community;
- Disclose how potential disproportionate impacts and environmental justice issues have been or will be addressed by the lead agency's decision making process;
- Propose mitigation for the unavoidable impacts that will or are likely to occur; and
- Include in the EIS a summary conclusion, sometimes referred to as an 'environmental justice determination', which concisely expresses how environmental justice impacts have been appropriately avoided, minimized or mitigated.

Adaptive Management, Mitigation and Monitoring

Adaptive management is an iterative process that involves selecting and implementing management actions, monitoring, comparing results with management and project objectives, and using feedback to make future management decisions. The process recognizes the importance of continually improving management techniques through flexibility and adaptation instead of adhering rigidly to a standard set of management actions. For adaptive management to succeed there should be agreement to adjust management and/or mitigation measures if monitoring indicates that goals are not being met. Although adaptive management is not a new concept, it may be a relatively new application for specific projects.

As stated in a recent CEQ report, *Modernizing NEPA*[10], the effectiveness of adaptive management monitoring depends on a variety of factors including:

a) The ability to establish clear monitoring objectives;
b) Agreement on the impact thresholds being monitored;
c) The existence of a baseline or the ability to develop a baseline for the resources being monitored.
d) The ability to see the effects within an appropriate time frame after the action is taken;
e) The technical capabilities of the procedures and equipment used to identify and measure changes in the affected resources and the ability to analyze the changes; and
f) The resources needed to perform the monitoring and respond to the results.

[10] Finalized September 2003. Accessed online at https://ceq.doe.gov/docs/ceq-publications/report/finalreport.pdf on March 15, 2017.

We recommend the SEIS describe the potential environmental benefits of a formal Adaptive Management Plan. Such a plan should be designed to ensure the success of mitigation measures and to provide management flexibility to incorporate new research and information. We also recommend that extant monitoring data and information collected by the COE and other relevant agencies be compiled and analyzed to determine if implemented or planned best management practices are effectively mitigating environmental impacts. An AMP should include a timeline for periodic reviews and adjustments, as well as a mechanism to consider and implement additional mitigation measures, as necessary, after the project is developed. Monitoring and evaluation should be used to determine if management actions are achieving objectives.

We recognize the Department of the Army's mitigation and monitoring regulations at 32 CFR Part 651.15(b) and agree with the CEQ that these regulations provide a comprehensive approach to ensuring mitigation proposed in the NEPA review process is completed and monitored for effectiveness. The Planning Guidance Notebook (Department of the Army Regulation 1105-2-100) also includes useful information for mitigation and monitoring planning. The SEIS should describe how the action alternatives would achieve consistency with key mitigation and monitoring requirements from 32 CFR Part 651.15(b) and ER 1105-2-100.

Impact Assessment Methodology and Criteria

We recommend the COE include a summary table and methodology[11] that assigns impact criteria (e.g., major, moderate, minor, or negligible) for the environmental consequences (e.g. direct, indirect, cumulative impacts) associated with each alternative. Such methodology and rationale will provide additional transparency and better inform decision-makers and the public regarding the importance of design features, mitigation measures, and best management practices. In addition, we believe this style of disclosure will help ensure that the SEIS describes potential significant adverse environmental impacts in a consistent and objective manner. Quantitative and categorical impact criteria or thresholds are described in guidance related to assessing cumulative impacts[12].

Cumulative Effects

EPA provides comments on the assessment of cumulative impacts in according to guidance titled *Consideration of Cumulative Impacts in EPA Review of NEPA Documents.*[13] This guidance states that in order to assess the adequacy of a cumulative impacts assessment, multiple issues should be considered.

In our review of the Draft SEIS we will assess whether the cumulative effects analysis adequately:

- Identifies resources, if any, that are being cumulatively impacted;

[11] See 40 CFR 1502.2(a) that encourages a more analytic approach to EIS development.
[12] Considering Cumulative Effects under the National Environmental Policy Act. Council on Environmental Quality. Finalized in January 1997. https://ceq.doe.gov/publications/cumulative_effects.html. Accessed online March 16, 2017.
[13] Consideration of Cumulative Impacts in EPA Review of NEPA Documents, Office of Federal Activities EPA 315-R-99-002 finalized May 1999. See https://www.epa.gov/sites/production/files/2014-08/documents/cumulative.pdf accessed online March 16, 2017.

- Determines the appropriate geographic (within natural ecological boundaries) area and the time period over which the effects have occurred and will occur;
- Looks at all past, present, and reasonably foreseeable future actions that have affected, are affecting, or would affect resources of concern. Describes a benchmark or baseline; and
- Includes scientifically defensible threshold levels.

Air Quality

Air quality impacts would include emissions from internal combustion engines during equipment operation, and fugitive dust from vehicle travel and site grading activities. The SEIS should contain an analysis of emissions from construction, vehicle use, and equipment use, including estimated mitigated annual emissions. Emissions associated with on-site generation of electricity during construction should be included in this analysis. The EPA supports incorporating mitigation strategies to minimize fugitive dust and toxic emissions, as well as emission controls for particulate matter and ozone precursors for construction-related activity. We recommend best management practices, all applicable requirements under local or State rules be incorporated into the SEIS, a Construction Emissions Mitigation Plan, and the Record of Decision. See EPA's Clean Construction USA website for additional information.[14]

Noxious Weeds, Invasive Plants, and Pest Management

Among the greatest threats to biodiversity is the spread of noxious weeds and exotic (non-indigenous) plants. Many noxious weeds can out-compete native plants and produce a monoculture that has little or no plant species diversity or benefit to wildlife. Noxious weeds tend to gain a foothold where there is disturbance in the ecosystem. Early recognition and control of new infestations is essential to stopping the spread of infestation and avoiding future widespread use of herbicides. Executive Order 13112, *Invasive Species* mandates federal agencies take actions to prevent the introduction of invasive species, provide for their control, and minimize the economic, ecological, and human health impacts invasive species cause.

We recommend that a vegetation management plan be prepared to address control of invasive species where appropriate. The plan should list the noxious weeds and exotic plants that occur in the project corridor. In cases where noxious weeds are a threat, the EPA recommends the vegetation management plan detail a strategy for prevention, early detection of invasion, and control procedures for each species. There are a number of prevention measures available such as reseeding disturbed areas as soon as possible and cleaning equipment and tires prior to transportation to an un-infested area. Plant seeds can be carried from a source area by the wind, wildlife, on equipment tires and tracks, by water, and on the boots of workers, so care should be taken to implement control procedures in all source areas to avoid spread to unaffected areas.

If any pesticides and herbicides would be used for vegetation treatment during the proposed project operations, the SEIS should address any potential toxic hazards related to the application of the chemicals, and describe what actions would be taken to assure that impacts by toxic substances would be minimized. If vegetation would be burned, then the SEIS should include a smoke management program, which would be followed to reduce public health impacts and

[14] https://www.epa.gov/cleandiesel accessed online March 16, 2017

potential ambient air quality exceedance. The SEIS should include a project design feature that calls for the development of an invasive plant management plan to monitor and control noxious weeds and to utilize native plants for restoration of areas disturbed by project activities.

Consistent with NEPA guidance regarding pollution prevention[15], we recommend use of pesticides be minimized as part of an integrated pest management plan. For many pests, alternatives to the use of traditional chemical products are available that are equally effective and are cost-competitive with chemical control methods. In reviewing the SEIS and impact analyses, EPA will consider the following questions, among others:

- Will the need for chemical pesticides be reduced through careful selection of pest resistant vegetation, plant and hardware selection to minimize requirements for irrigation, best mowing practices, and planned elimination of pest habitats?
- Are there less toxic pesticide alternatives?
- Will operations accommodate pest management practices that are less susceptible to offsite transport of chemicals, such as pesticides and fertilizers (thereby reducing the potential for groundwater contamination)?
- Will less persistent pesticides be identified and used only when needed, in spot application to specific targets, and at minimum required application levels?

In addition, EPA offers that Executive Order 13514 and accompanying guidance[16] sets sustainability goals for a variety of landscape management practices. These practices include implementation of integrated pest management plans that minimize pesticide use.

---

[15] Office of Federal Activities' Guidance on Incorporating EPA's Pollution Prevention Strategy into the Environmental Review Process. Finalized on February 24, 1993. Accessed online March 16, 2017 at https://www.epa.gov/sites/production/files/2014-08/documents/pollution-prevention-strategy-pg.pdf
Office of Federal Activities: Pollution Prevention – Environmental Impact Reduction Checklists for NEPA/309 Reviewers. Finalized in January 1995. Accessed online March 16, 2017 at https://www.epa.gov/sites/production/files/2014-08/documents/pollution-prevention-checklist-nepa-pg.pdf
Council on Environmental Quality, Memorandum Regarding Pollution Prevention and the National Environmental Policy Act. Finalized January 12, 1993. Accessed online March 16, 2017 at https://energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-CEQ-PollutionPreventionNEPA.pdf

[16] Council on Environmental Quality Guidance for Federal Agencies on Sustainable Practices for Designed Landscapes. Accessed online March 16, 2017 at https://obamawhitehouse.archives.gov/administration/eop/ceq/sustainability/landscaping-guidance

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Interior Columbia Basin Area
Columbia Basin Branch
304 South Water, Suite 201
Ellensburg, Washington 98926

Mr. Ben Tice
201 North Third Avenue
Walla Walla, WA 99362-1876

Re: The National Marine Fisheries Service Scoping Comments for the Operation and Maintenance of the Mill Creek Flood Control Project (MCFCP).

Dear Ben,

The National Marine Fisheries Service (NMFS) appreciates the opportunity to provide comments on the Walla Walla District Army Corps of Engineers' (Corps) proposed scoping and supplemental Environmental Impact Statement (SEIS) for the continued operation and maintenance of the Mill Creek Flood Control Project. The NMFS has reviewed pertinent information regarding the project and has the following comments or suggestions for consideration in the development of the SEIS.

1. The NMFS recommends completing a new Environmental Impact Statement (EIS) instead of a supplemental EIS. The existing EIS was completed in 1975, long before many species listings, regulatory and litigation driven changes to the Endangered Species Act, NEPA, and other applicable laws and acts. In addition, many changes to the Project itself have occurred due to mitigation implementation and maintenance over the years. Completing a new analysis would provide all reviewers a clear and full understanding of the proposed alternatives and analysis.

2. The NMFS recommends that the Corp develop a vegetation plan and variance that promotes the development of riparian vegetation in the forebay and on the levees. Riparian vegetation in different forms performs several habitat development and maintenance functions that are absent or poorly represented throughout the MCFCP because of traditional floodway management. Traditional floodway management has reduced, and will continue to limit the amount and diversity of riparian vegetation, particularly woody vegetation. The establishment and maintenance of riparian vegetation can enhance the environmental value of these channels. However, when stream banks are covered by riprap, native trees and shrubs have difficulty growing. Placing riprap along

most of the channel bank profile without adequate added vegetation will prevent the establishment and succession of functional riparian vegetation (trees and shrubs).

3. The NMFS recommends that the Corp develop and implement a plan to redesign the existing levee structures to include planting benches, overbuilt levee prism, or levee setback areas where riparian vegetation can develop. This will delay the onset of lethal temperatures within the Mill Creek channel, thus providing more time for fish to migrate from the area and improving habitat within the Corp footprint. Coupled with other measures, including the construction of a low flow channel, the need for fish to evacuate this portion of the channel may be obviated.

4. The NMFS recommends that the Corp take actions to improve water temperature and fish migration conditions within the Corp footprint during low flow periods. To accomplish this the Corp should build a low-flow channel along the south bank of Mill Creek within the federally owned portion of the MCFCP, and modify, upgrade or replace fish passage structures at the first division and Bennington Dams to ensure compliance with current NMFS passage criteria.

5. The NMFS recommends reducing the adverse effects of entrainment ("take" under the ESA) of steelhead into Bennington Lake during unscreened diversions. NMFS supports the use of at least 2,500 cfs as the "trigger" for unscreened diversions into Bennington Lake that interfere with passage approximately once in every 20 years versus the 1,400 cfs the Corp is currently using which diverts unscreened flows and entrains steelhead approximately every 2 years.

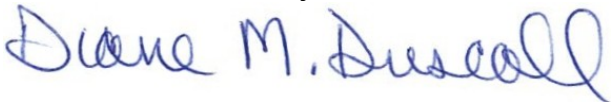
6. The NMFS recommends including the Reasonable and Prudent Alternative as identified in the NMFS September 26, 2011, Endangered Species Act Section 7 Formal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the Operation and Maintenance of the Mill Creek Flood Control Project to minimize the effects of the continued operation and maintenance of the project on MCR steelhead and MCR steelhead critical habitat (NMFS consultation tracking # WSO-2003-00309).

7. The NMFS recommends an analysis of the Bennington Lake storage and operations plan to determine if that water can be used to benefit late season flows in the Mill Creek system.

As you know, the Corps requested reinitiation of formal consultation on the Operations and Maintenance of the Mill Creek Flood Control Project in June of 2015. The Corps, the National

Marine Fisheries Service, and the USFWS had agreed to an extended consultation time period based on the complexity of the action. However, based on the Corps' Dam Safety Update for the Mill Creek Project, and a Corps briefing with community representatives on March 28, 2017, we understand that the flood diversion criteria is now much lower than originally proposed in the 2015 biological assessment. Due to the recent change in the proposed action and the likelihood of additional changes through the NEPA process, NMFS has cancelled the ongoing consultation and will again initiate consultation when we receive a final revised proposed action. Until that time the Corp continues to operate the MCFCP without complying with the Endangered Species Act.

Sincerely,



Diane Driscoll
Sr. Fish Biologist, Columbia Basin Branch

From: Michelle Eames
To: NEPANWW, NWW
Cc: Tice, Benjamin J CIV USARMY CENWW (US); Russ MacRae; Erin BrittonKuttel
Subject: [Non-DoD Source] MCL O&M SEIS
Date: Friday, June 02, 2017 2:06:21 PM

Mill Creek Operations and Maintenance Scoping Comments:

The US Fish and Wildlife Service (USFWS) appreciates the opportunity to provide comments on the Walla Walla District Army Corps of Engineers' (Corps) proposed scoping and supplemental Environmental Impact Statement (SEIS) for the continued operation and maintenance of the Mill Creek Flood Control Project. The USFWS has reviewed pertinent information regarding the project and has the following comments or suggestions for consideration in the development of the SEIS. The following comments are provided in accordance with the provisions of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.), as amended; the Fish and Wildlife Coordination Act (FWCA) (16 U.S.C. 661 et seq.), as amended; and the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), as amended.

1. The USFWS recommends completing a new Environmental Impact Statement (EIS) in lieu of completing a supplemental EIS. The existing EIS was completed in 1975, long before many species listings, regulatory and litigation driven changes to the Endangered Species Act, NEPA, and other applicable laws and acts. In addition, many changes to the Project itself have occurred due to mitigation implementation and maintenance over the years. Completing a new analysis would provide all reviewers a clear and full understanding of the proposed alternatives and analysis.

2. The USFWS recommends including the Terms and Conditions identified in the 2007 Biological Opinion for bull trout (FWS Reference 1-9-08-F-0013) that have not already been completed into the preferred alternative. These terms and conditions minimize the effects of the continued operation and maintenance of the project on bull trout through addressing flows and hydrology, minimizing bull trout strandings or entrainment, providing improved connectivity and passage, and maintaining or improving water quality.

3. The USFWS recommends developing an alternative that considers improving riparian vegetation conditions along the entire project, and reducing the removal of vegetation on the levees. Riparian vegetation has been showed to reduce impacts of flooding, provides aesthetic appeal for recreationalists, and improves habitat for both terrestrial and aquatic species.

4. The USFWS supports building the following into the proposed alternative as described in the Corps' scoping notice (82 FR 11024) including: constructing a low flow channel through the one-mile sections of channel managed by the Corps; constructing new fish ladders at the diversion dam and division works; continuing fish passage monitoring; continuing use of the intake canal fish screens to prevent entrainment of fish during non-flood flow diversions; conducting fish salvage as necessary; and capturing fish after unscreened diversions into Bennington Lake.

5. The USFWS recommends managing for a flood diversion criteria that minimizes the frequency of potential bull trout entrainment with unscreened flood flows into Bennington Lake.

6. The USFWS supports planting diverse native species that provide habitat for pollinating insects.

As you know, the Corps requested reinitiation of formal consultation on the Operations and Maintenance of the Mill Creek Flood Control Project in June of 2015. The Corps, the National Marine Fisheries Service, and the USFWS had agreed to an extended consultation time period based on the complexity of the action. Now however, based on the development of alternatives through this scoping process, the original proposed action is expected to change. In

particular, based on the Corps' Dam Safety Update for the Mill Creek Project, and a Corps briefing with community representatives on March 28, 2017, we understand that the flood diversion criteria is now much lower than originally proposed in the 2015 biological assessment. Due to the likelihood of this and additional changes through the NEPA process, the USFWS is stopping work on the biological opinion until we receive a final revised proposed action and revised biological assessment.

Thank you for the opportunity to comment. If you have any questions about our comments, please contact Michelle Eames by email at Michelle_Eames@fws.gov <mailto:Michelle_Eames@fws.gov> , or by phone at: (509) 893-8010.

Michelle Eames

ESA Branch Supervisor

USFWS Eastern Washington Field Office

11103 E. Montgomery Dr.

Spokane Valley, WA. 99206

Phone: 509-893-8010

Fax: 509-891-6748

State of Washington
DEPARTMENT OF FISH AND WILDLIFE
Eastern Region • Region 1 • 2315 North Discovery Place, Spokane Valley, WA 99216-1566
Telephone: (509) 892-1001 • Fax: (509) 921-2440

June 19, 2017

U.S. Army Corps of Engineers
Walla Walla District
ATTN: PPL-C, MCL O&M SEIS
201 North 3rd Avenue
Walla Walla, WA 99362-1876
Transmitted electronically to: NEPANWW@usace.army.mil

Re: MCL O&M SEIS, Scoping Comments for Mill Creek Supplemental Environmental Impact Statement

To Whom It May Concern

The Washington Department of Fish and Wildlife (WDFW) offers the attached (Enclosure 1) comments in response to the Scoping exercise currently being conducted by the US Army Corps of Engineers (USACE) in preparation for developing a Supplemental Environmental Impact Statement (SEIS) for Operations and Maintenance of the Mill Creek Project. WDFW has interest in the USACE operations of the Mill Creek Project related to our agency mission to preserve, protect and perpetuate fish, wildlife and ecosystems while providing sustainable fish and wildlife recreational and commercial opportunities. As co-managers in the Walla Walla Basin with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) we have a particular interest in assuring recovery and restoration of ESA listed Mid-Columbia bull trout and steelhead, as well as, the successful re-introduction of spring Chinook. Current operations of the Mill Creek Project continue to hinder progress in these areas; it is our desire that the SEIS process brings a renewed USACE focus to their role and responsibility in recovery of these fish resources.

WDFW has been attempting to work with the USACE on fish passage and other environmental issues associated with the Mill Creek Project since the 1990's. These efforts have resulted in a few positive changes but the lion's share of the issues remain unresolved and are fully outlined in the attached comments. Adult fish passage at Bennington Dam is, perhaps, the biggest of these issues. Despite jointly developed and accepted designs being in place to solve the passage issues since 2007, the USACE has yet to identify funds under Operations and Maintenance or any other funding source to complete the construction. Eighty-five weirs under USACE operations control continue to impact passage and provide poor habitat conditions for salmonids. Diversions at certain flood flows into Bennington Lake entrain and trap adult and juvenile steelhead, bull trout and spring Chinook. Despite these ongoing impacts, the current Purpose and Need Statement for development of the SEIS states only that the Corps will *consider* operational and structural

changes to improve conditions for ESA-listed fish. In addition, improved conditions for ESA-listed fish is not among the items listed that identified alternatives must consider.
This lack of focus to improved conditions for ESA-listed fish is a concern. It is an indicator that merely supplementing the 1975 EIS may not be adequate to address all of the impacts of this Project. Since 1975 there have been many changes that impact Mill Creek and associated USACE operations, not the least of which is the ESA listing and continued decline of bull trout and steelhead. I do not believe that the existing EIS offers enough of a base to support all of the actions and alternatives that should be considered, particularly in regards to impacts to bull trout, steelhead and spring chinook. As an example, effects from the project to these species are not mentioned in the Environmental Impacts section of the 1975 document; this section instead focuses on conditions in the reservoir as related to planted rainbow trout. WDFW urges the USACE to reconsider a new full EIS rather than relying on a 42-year-old, severely outdated document.

WDFW appreciates the opportunity to provide our comments. The Department believes that the development of an EIS for the Mill Creek Project provides our Agencies, together with our co-managers (CTUIR), an opportunity to renew and reinvigorate our relationship and to work together to successfully restore fish resources in Mill Creek. If you have questions or comments on this letter or if you would like to discuss how to better work together to our common goals, please feel free to contact me at 509-892-7860.

Sincerely,

Mark Wachtel
Region 1 Habitat Program Manager
Washington Department of Fish and Wildlife

CC: Steve Pozzanghera, WDFW
Chris Donley, WDFW
Michelle Eames, USFWS
Diane Driscoll, NMFS
Gary James, CTUIR

Enclosure 1
WDFW Comments – June 19, 2017
USACE Mill Creek Project
O&M EIS Scoping

1. **Need for full Environmental Impact Statement.** – The Washington Department of Fish and Wildlife (WDFW) recommends a full Environmental Impact Statement (EIS) rather than the current proposed supplemental EIS. The 1975 EIS that would be supplemented fails to recognize the effect the project has on anadromous fish as Environmental Impacts for which the project must account. The current EIS was authored long before special ESA listings and critical habitat designations for steelhead and bull trout were in place. Additionally, there have been changes to the operations of the project and to NEPA itself that may impact the approach to evaluation of the environmental impacts. As an example the current EIS focuses on conditions in the reservoir (Bennington Lake) and the impact to planted fish and barely touches on the impacts the project has on Mill Creek itself and the anadromous resources present in the creek.

2. **Passage at Bennington Dam. –** Between 2002 and 2007 WDFW, National Marine Fisheries Commission, US Fish and Wildlife Service and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) among others worked with the US Army Corps of Engineers (USACE) to develop designs for addressing fish passage at Bennington Dam. Final designs were agreed upon in 2007. Most of this work was done under section 1135 of the Water Resources Development ACT. WDFW withdrew from the 1135 process because of concerns with ongoing maintenance requirements for sponsors. USACE agreed to pursue funding under the annual O&M budget process. To date, no funding has been identified. It has been a decade since a solution was identified to rectify the impediment this project has on recovery of Mid-Columbia steelhead and bull trout. Any alternative identified as the preferred under this process *must* include addressing fish passage issues at Bennington Dam and the process by which funding to implement a solution will be obtained. Additionally, the Department recommends that Bennington Dam fish passage be singled out as an early action item that will be accomplished regardless of alternative selection during the EIS process and that the steps to complete this work be identified and taken concurrently with EIS development.

3. **Cross-channel Weirs**. – There are hundreds of cross channel weirs associated with the Mill Creek flood control project. Eighty-five of those weirs remain on the USACE Mill Creek Project. Within the past ten years we have recognized the impacts these weirs have on fish, particularly listed steelhead, bull trout and re-introduced spring chinook. WDFW recommends that the scope of any alternative include actions to remove these weirs and conduct channel restoration to support these valuable fish resources.

4. **Bennington Lake Diversions**. – Bennington Lake is currently used as a reservoir to contain flood waters too great for the downstream aspects of the project to contain. Current operations of the diversion system can vary depending on flood conditions, however, diversion to the lake can now occur at any time the flow rises above 1400 cfs. Diversions at this flow rate are not screened and there are no safeguards in place to prevent the entrainment of ESA listed steelhead and bull trout and reintroduced spring chinook within the reservoir. While I do not believe that the mortality of these fish in flood events has been enumerated it is certain that many will perish in the lake. WDFW recommends that the scope of any EIS include a complete examination of how flood control is conducted by this project, with an emphasis on eliminating the current practice of unscreened diversions into Bennington Lake.

5. **Water Quality.** – The scope of this EIS should include an extensive analysis of the impacts the project has on water quality and alternatives to eliminate or mitigate for them. Water temperature is the chief water quality parameter that should be examined. This includes releases to Russel Creek from Bennington Lake and increased water temperatures due to pooling behind Bennington Dam itself and the weirs within the project channel downstream of the dam. In particular, the operating regime of the project itself should be considered for refinement specifically to address downstream water quality impacts.

6. **Off-Project Impacts.** –The scope of the EIS should include a full assessment of the downstream impacts of the project such as: a) The "settling basin" directly above Roosevelt Street and the beginning of the concrete channel. Water in this area in summer months spreads out and becomes lethal for salmonids; b) Interruption of stream function which limits the recruitment within Mill Creek of spawning substrate, sediments and woody material; c) the above-mentioned water temperature issues within Mill Creek; d) Water flow and passage through the concrete flood control channel in the City of Walla Walla. Operations should be examined for possible modification to assist migrating adult steelhead, bull trout and spring chinook.

From: nww-admin@dma.mil
To: NEPANWW, NWW
Subject: Mill Creek SEIS
Date: Monday, June 12, 2017 3:52:21 PM

Name Albert Sutlick
Organization Type Individual
Organization Name
Department
Title Certified Wildlife Biologist
mail
Address
[redacted]
Walla Walla WA US 99362

Phone Number [redacted]
Comment I would like to see the Mill Creek EIS again address how the LSRFWCP lands will have the habitat development completed. This work was started in the late 1990s, and like most biological work was not fully successful on the first attempt. Money was only available at that time for one planting attempt, and as with most plantings in this arid environment without irrigation, it was only partially successful. The requirement to develop the habitat so as to replace that lost when the Lower Snake River Projects were inn undated remains, and if necessary another source of funding must be found. The lands purchased for mitigation (the Filan Property, about 88 acres), is not available for plantings to replace riparian vegetation lost during the recent levee rehabilitation, as this would be double counting. These lands need to have development completed for LSRFWCP purposes .

The recent levee rehabilitation project has left a deficit of riparian habitat at the Mill Creek project. While the Corps certainly needed to ensure the safety of the levees and allow for future inspections, the woody riparian vegetation, particularly the large trees, were a result of actions and inactions by the Corps over a long period of time, and as such the Corps should be responsible for the replacement of this habitat, just as any other Governmental agency or private individual would be. Establishing plantings on the LSRFWCP land would be improper, as this land is already dedicated to another purpose. Planting at other locations around to lake would serve to alter the habitats that have been established over many years, resulting in losses to a number of species, in particular upland birds and small mammals, which prefer a mix of grasslands and shrubby vegetation, which has been the goal in past Master Plans and Operational Management Plans. Large woody vegetation is locations away from water would also defeat the goal of "in kind, in place" mitigation if at all possible. Without adjacent permanent water, this would become "out of kind, out of place", the least desirable type of mitigation. A far better solution would be to gain a conservation easement of lands adjacent to Mill Creek from Tausick Way to about University Drive, particularly on the north side, where substantial land exists between the bike path and the old city landfill (without disturbing the "sealed" landfill), where with a minimum development of irrigation, and continuous belt of large trees could be planted which would be quite similar to that which was lost during the levee rehab. A strip approximately 25 to 50 feet wide would be entirely sufficient to establish large woody vegetation and be adequately setback so as to ensure minimal, if any, root penetration into the streamside area (which on the north side is not a raised levee).

Lastly, I suggest the lands at the Mill Creek Project continue to be managed for multiple uses including sightseeing, hiking, hunting, etc. There have been a number of proposals by members of the public to essentially turn this area into a city park, which it was never intended to be. That type of use must be addressed at the city or county level, and should not try to appropriate Federal lands for narrow purposes.
Include me in the SEIS mailing list Yes

[redacted]

From: Andrew Pryor
To: NEPANWW, NWW
Subject: [Non-DoD Source] MCL O&M SEIS
Date: Monday, June 12, 2017 3:41:17 PM

For decades I have appreciated the USACE Mill Creek Project as a source of quality outdoor recreation in close proximity to Walla Walla. I have observed Improvements to the trail system have been met with an increase in users and a wider spectrum of user-groups.

I would like to encourage USACE to consider all user groups when doing routine O&M. Small details improve the visitors experience. For example, recently USACE reconstructed the levees along Mill Creek leaving a top surface of loose gravel that is not an improvement of what preexisted. Loose gravel is less than desirable for walkers, strollers, dogs, horses, bicycles. In past improvements such as the upper Bennington Lake trail system, adding a top coat leaving a smoother surface improved the trail. Bringing trails to a higher standard serving more citizens should be a goal of future O&M.

Thank you for the opportunity for public input.

Andy Pryor


From: Becky Wilson
To: NEPANWW, NWW
Subject: [Non-DoD Source] ATTN: PPL-C, Mill Creek SEIS
Date: Friday, May 26, 2017 2:32:37 PM

Hello-

I'm writing to you in regards to your public outreach for comments on the future of Bennington Lake recreation area.

COMMENTS:

1. First, thank you for ALL that you have already done.

2. Would like to see trail improvements such as dirt, placed over the graveled areas, better drainage, etc.

3. Would like to see more trails developed.

4. Would like to see a mountain bike skills park where families can let their kids learn and play on bikes. Beginners can work on developing skill, etc.

5. Would also like to see no hunting. Bennington is so heavily used for recreation, by so many people, year round - that it seems hunting is a danger.

6. Would be happy to volunteer to help!

Please feel free to contact me if you have further questions or would like more information.

Thanks!
Becky Wilson
[redacted]

—
[redacted]

From: nww-admin@dma.mil
To: NEPANWW, NWW
Subject: Mill Creek SEIS
Date: Thursday, May 18, 2017 10:54:37 AM

Name Brad Wearstler
Organization Type Individual
Organization Name
Department
Title
Email [redacted]
Address
[redacted]
Walla Walla WA US 99362

Phone Number
Comment I strongly support the proposal to construct a low flow channel through the remaining 81 weirs in the one-mile section of engineered channel managed by the Corp and use of fire as a prescribed tool for vegetation control.
Include me in the SEIS mailing list Yes

[redacted]

From: nww-admin@dma.mil
To: NEPANWW, NWW
Subject: Mill Creek SEIS
Date: Thursday, May 25, 2017 10:10:29 AM

Name Catelyn Sprague
Organization Type Individual
Organization Name
Department
Title
Email
Address
Walla Walla WA US 99362

Phone Number
Comment Thank you for being so willing to answer questions (even if many of the questions I had were unrelated!). You had mentioned a concern for flooding down in lower mill creek properties if more water were to be released in the creek. Personally, this would not be an issue for me, nor for my neighbor on the other side of the creek, and would actually be a welcomed event for us. We love Bennington Lake being full, and we also love the idea of being able to have a better water-flow during the summer than we have seen in past. We look forward to being continually informed on the latest updates with your developments and plans.
Include me in the SEIS mailing list Yes

From: nww-admin@dma.mil
To: NEPANWW, NWW
Subject: Mill Creek SEIS
Date: Wednesday, May 24, 2017 6:27:13 PM

Name Gerald Gorman
Organization Type Individual
Organization Name
Department
Title
Email
Address
[redacted]
Walla Walla WA US 99362

Phone Number [redacted]
Comment Since the last major flood in 96-97, we have flooded several times, but the water remained at the barn area, not close to the house. This last March, flood water reached within 12 feet of the house, forcing ground water into the basement. On March 10, the water flow at the Wallula Bridge was at 1696cfs, we did not flood. On March 16, the water flow was at 1350cfs and we did flood. On March 19, the water flow was at 725cfs, and we flooded again. When the water receded, we could see that massive amounts of gravel had been deposited in the channel, leaving no room for the water to flow..During this time, a large section of river bank was washed away leaving the bank about 10 feet from the back of the barns. We have contacted county and state agencies for help to stabilize the banks, to no avail. We have lived on this property since 1981 and since 1996, we have never had the water this close to our home, and never had it in the house. We thank you for the information given at the open house on May 24, 2017. we hope that we can get some assistance in repairing this problem.
Gerald and Jan Gorman
Include me in the SEIS mailing list Yes

[redacted]

From: Glen and Sharon Mendel
To: NEPANWW, NWW
Subject: [Non-DoD Source] MCL O&M SEIS
Date: Monday, June 12, 2017 3:16:39 PM

Hello,

The Mill Creek O&M Scoping for the SEIS should include effects of the project the way it is operated and for future maintenance on water temperature and thermal loading within the USACE controlled portion of the stream. This water quality aspect has been ignored by the USACE in the past, and currently. USACE indicates in one of their reports a 9 degree F gain in water temperature in summer, which makes water quality mostly unsuitable for ESA listed salmonids in summer as well as for tribally reintroduced spring Chinook. This temperature gain is unacceptable and should be reduced or eliminated by constructing a low flow channel and consolidating the low summer flows into a narrow, deepened low flow channel between the existing weirs. Continuing to operate the flood control channel as it currently is makes water quality out of compliance with EPA and WA Dept. of Ecology standards and also is not in compliance with ESA habitat requirement for salmonids. Why would construction of a low flow channel to help improve passage, fish survival and thermal loading not be a maintenance requirement of this project?

Thank you for the opportunity to provide input.

Glen Mendel

Mill Creek Project O&M SEIS
Public Scoping

COMMENT CARD
(PLEASE PRINT)

Joe A Jacobs
MR./MRS./MS. FIRST NAME INITIAL LAST NAME

[redacted]
ADDRESS

Walla Walla WA 99362
CITY STATE ZIP

Self
FIRM, ORGANIZATION OR AGENCY REPRESENTED

EMAIL ADDRESS

[redacted] 5/24/17
PHONE NO. (optional) DATE

REMARKS:
I recenty walked along the Mill Creek Channel East of Divisiun Works and tought the tree removal looked Fantastic and was well done.

(CONTINUE ON OTHER SIDE)

PLACE FIRST CLASS POSTAGE HERE

U.S. Army Corps of Engineers
Walla Walla District
CENWW–PPL–C, Mill Creek SEIS
201 North 3rd Avenue
Walla Walla, WA 99362-1876

US Army Corps of Engineers®

From: Kathryn Howard
To: NEPANWW, NWW
Subject: [Non-DoD Source] public comment
Date: Monday, June 12, 2017 8:43:43 PM

To whom it may concern:

This is a letter to give comment about the Operations and Management of Mill Creek SEIS.

I am concerned about the fish passage in downtown Walla Walla (a concrete channel) and also the fish ladder at Rooks Park. The returning salmon and other fish must navigate a difficult and fast concrete channel that has no natural features. It is also unattractive to the city of Walla Walla and somewhat dangerous, especially at 1st and Main Streets.

At the fish ladder at Rooks Park, the fish ladder has a very heavy flow and is difficult for the fish to climb above the dam.

The levee now has no shade for fish or for human recreation and is not attractive or optimal for temperature control of Mill Creek waters.

thank you for allowing public comment on this important area

Kathryn Howard
[redacted]
Walla Walla, WA 99362

From: nww-admin@dma.mil
To: NEPANWW, NWW
Subject: Form
Date: Friday, May 12, 2017 8:48:48 AM

Name dr michael p holman
Organization Type Individual
Organization Name
Department
Title
Email [redacted]
Address
[redacted]
walla walla WA US 99362

Phone Number [redacted]
Open Comment Period Available Mill Creek SEIS
Comment I would like to have fly fishing-catch and release allowed in the areas between the dams.

HTTP_CMS_CLIENT_IP:
[redacted]

From: nww-admin@dma.mil
To: NEPANWW, NWW
Subject: Mill Creek SEIS
Date: Thursday, June 01, 2017 2:53:26 PM

Name Mr. Rodney Huffman
Organization Type Individual
Organization Name
Department
Title
Email
Address
Walla Walla WA US 99362

Phone Number
Comment I would like Corps staff to focus on active outdoor recreation in several areas of the project and considering less hunting. While the population of hunters has likely declined over the years, the numbers of walker, bikers and horse riders has likely increased substantially. This has potential to create unsafe conditions for non-hunters. I would like to see more emphasis of natural surfaces on trails when repaired. Placing gravel to build up a rutted area is great, I request a follow-up application of soil to adjust the surface material. I would also like to see more frequent mowing of trails as vegetation grows quickly in the spring. I would also like to see the development of another trail on the backside of the storage dam. I would be happy to volunteer to mow, build or repair trails, please contact me.
Include me in the SEIS mailing list No

HTTP_CMS_CLIENT_IP: