

**Status of the U.S. Army Corps of Engineers Hatchery Mitigation Program with
Oregon
Prepared by the Oregon Department of Fish and Wildlife
February 8, 2017**

Background:

The Oregon Department of Fish and Wildlife (ODFW) has operated seven mitigation hatcheries (see Appendix A) in the Columbia, Willamette and Rogue Basins under a Cooperative Agreement (Agreement) with the Army Corps of Engineers (Corps) for 65 years, with the first hatchery coming on-line in 1951. These seven hatcheries were implemented to mitigate for the lost production and/or habitat associated with the construction of federal dams in these basins. The current Agreement is due to expire on June 30, 2017.

In 2015, the Corps advised ODFW that they would no longer be implementing these mitigation hatcheries under a Cooperative Agreement with ODFW and instead would put all or some of the program elements out for competitive bid. Program elements include operation and maintenance of the hatcheries, fish health services, fish marking and tag recovery, and fish transport. The Corps stated they were moving away from using Cooperative Agreements at the direction of their Headquarters. We have never received any written documentation as to what federal laws or directives have compelled them to break a 65 year agreement with the state. ODFW has numerous long-standing Cooperative Agreements in place with a diverse set of federal agencies and there is no effort or requirement to move away from other existing agreements. In fact, the other federal agencies ODFW works with value these agreements, as they are beneficial to the federal government and the state, the whole basis of cooperative agreements.

In the summer of 2016, Corps leadership told ODFW leadership that they would be able to sole source the operations and maintenance of the Willamette Hatcheries but had not found a mechanism to sole source operations and maintenance of Bonneville and Cole Rivers Hatcheries. There was no discussion of contracting for things like fish health services and fish marking and tag recovery. Discussions continued staff-to-staff through the fall of 2016, with Corps staff noting they would put the trout production out for bid and ODFW would be eligible to bid on this work. Again, we never received any written correspondence documenting why they were compelled to make these changes. As long time cooperators, it seems Corps leadership would feel compelled to detail to the state why these changes were required. That has never happened.

On January 25, 2017, Corps and ODFW staff met to discuss next steps in the process. At this meeting the Corps communicated the following:

- The Corps would let a sole source contract to ODFW for up to 3 years with an annual renewal process for the operation of the Marion Forks, South Santiam, McKenzie, and Willamette Hatcheries. Each hatchery would be limited to their mitigation poundage with a priority to spring Chinook.
 - In 2015, the Corps began funding the McKenzie Hatchery to produce 360,000 pounds based on a court settlement National Oceanic and Atmospheric Administration (NOAA) Fisheries and ODFW did not support, until NOAA Fisheries approves the Hatchery and Genetic Management Plan. This represents a 55% reduction in their mitigation responsibility they have chosen not to make up elsewhere as the Cooperative Agreement allows.

- Leaburg Hatchery would be defunded and closed. Trout production would be contracted to small business for up to 100,000 pounds with an option for an additional 50,000 pounds. There is no intent to meet their full mitigation responsibility of 277,000 pounds, reducing their trout mitigation by 64%. The Corps provided no explanation as to why they are unilaterally reducing their mitigation responsibility. In addition:
 - No explanation as to why they had moved from ODFW being able to bid on this work to a small business contract.
 - The Corps has asked for a priority list of waterbodies to stock and will not stock trout in reservoirs where reintroduction efforts are planned or underway, such as Detroit, Foster, Cougar, and the Middle Fork Willamette Reservoirs. To date, the only reintroductions that are underway is in the South Santiam. There is no downstream passage in place for Detroit, Cougar or the Middle Fork to date and there won't be any for years.
 - It also appears they will not fund trout stocking in the McKenzie River.
 - They are asserting a fish management role they have no authority to implement and have been advised by NOAA Fisheries and ODFW there is little to no biological risk to re-introductions due to these trout stockings.
- Bonneville and Cole Rivers Hatchery operations and maintenance, along with Fish Health Services and Fish Marking and Recovery Programs for the entire mitigation program would be put out for competitive bid. No explanation was tendered as to why these services were being put out to bid versus others. ODFW will be able to bid on this work and intends to.
- Production at the Bonneville Hatchery is supported by significant Mitchell Act funds provided by NOAA; the Corps had not coordinated with NOAA on this at the time of this meeting, throwing Mitchell Act implementation and the overall operation of one of Oregon's largest and most popular hatcheries into significant uncertainty.
- The intent is to implement these changes by July 1, 2017, with the bid process opening up in 1 week (February 1).
- On February 1, 2017, ODFW began to receive Services Sought solicitations from the Corps.

What is the Effect of the Corps Actions?

- The Corps is making unilateral decisions to reduce the federal government's mitigation responsibilities as designated in the Congressional record.
 - The Corps provides 100% of the trout that support recreational trout fisheries in the Willamette Basin above Willamette Falls, their decision will reduce trout stocking in the Upper Willamette by 64%. ODFW does not have the resources to backfill this loss and should not.
 - Recreational trout fishing will be eliminated from the Detroit, Foster, Cougar and Middle Fork Willamette Reservoirs and possibly the mainstem McKenzie River. These are among the state's most highly used recreational trout fisheries, particularly given their proximity to the state's population centers.

- These actions will disproportionately affect rural communities in the valley through lost recreational activities.
 - Leaburg Hatchery supports most of the trout production in the Upper Willamette Basin, stocking fish in a wide variety of places 48 of the 52 weeks of the year, customizing those efforts to be efficient and strategic in the support of recreational fishing.
 - Given that Oregon operates 32 hatcheries as a system, it is unknown to what degree the program can be implemented if the Corps implements as intended. There will no doubt be serious consequences to operating the current system from this action.
- The Corps actions and failure to communicate, cooperate and collaborate in good faith with Oregon demonstrates their lack of commitment to their mitigation responsibilities. Despite ODFW's leadership continuously communicating Oregon's expectations regarding the federal governments' mitigation responsibilities and the importance of these programs to Oregonians, the Corps leadership has continually failed to understand the role of these programs nor engage ODFW in discussions or negotiations regarding the fate of these programs. They have basically told Oregon what they are going to do, take it or leave it.

Appendix A: Brief background and mitigation responsibility for each hatchery.

These seven mitigation hatcheries were implemented as follows:

1. Marion Forks Hatchery – funded by the Corps since 1951 to mitigate for the loss of salmon and steelhead production and habitat due to the construction of Detroit and Big Cliff Dams in the North Santiam Basin. Mitigation responsibility is 84,000 pounds of salmon/steelhead.
2. Willamette Hatchery – funded by the Corps since 1952 to mitigate for lost fish production and habitat due to the construction of the Hills Creek, Lookout Point and Dexter Dams in the Middle Fork Willamette Basin. Mitigation responsibility is 235,000 pounds of spring Chinook.
3. Leaburg Hatchery – funded by the Corps since 1953 to mitigate for the loss of trout production and habitat due to the construction of Cougar and Blue River Dams in the McKenzie Basin and operation of the Corps Willamette River Basin Projects. Mitigation responsibility is 277,000 pounds of trout.
4. South Santiam Hatchery – funded by the Corps since 1968 to mitigate for lost salmon and steelhead production and habitat due to the construction of Foster Dam in the South Santiam Basin. Mitigation responsibility is 71,000 pounds of salmon/steelhead. Loss of production and habitat due to Green Peter Reservoir was supposed to be included by the federal government has never been resolved with Oregon.
5. Cole Rivers Hatchery – funded by the Corps since 1973 to mitigate for the loss of salmon, steelhead, and trout production and habitat due to the construction of Lost Creek, Applegate, and Elk Creek Dams in the Rogue Basin. Mitigation responsibilities are 365,120 pounds of salmon, steelhead, and trout.
6. Bonneville Hatchery – funded by the Corps since 1974 to mitigate for lost fall Chinook production due to the construction of John Day Dam. Mitigation responsibilities yet to be determined.
7. McKenzie Hatchery – funded by the Corps since 1974 to mitigate for the loss of salmon production and habitat due to the construction of Cougar and Blue River Dams in the McKenzie Basin. Mitigation responsibilities are 80,800 pounds of salmon.