

**FINDING OF NO SIGNIFICANT IMPACT  
MILL CREEK FISH PASSAGE PROJECT  
SECTION 408 PERMISSIONS  
APRIL 2016**

**1. INTRODUCTION**

The Walla Walla District Corps of Engineers (Corps) proposes to grant a series of permissions pursuant to 33 United States Code (USC) Section 408 (Section 408), and Engineer Circular EC 1165-2-216 (or successor policy/guidance), for alterations to portions of the Corps-constructed Mill Creek flood risk management channel in Walla Walla, Washington. The purpose of the alterations would be to improve fish passage conditions for native fish. These Section 408 permissions would apply to requests by the Mill Creek Work Group (MCWG) and/or its member organizations, which are endorsed by the Mill Creek Flood Control Zone District (Flood Zone District). The Corps constructed the Mill Creek flood risk management channel in the 1940's to pass high flows and reduce the risk of flooding to the City of Walla Walla and surrounding communities. The Mill Creek channel begins at the Diversion Dam at Rooks Park, River Mile 11.5, and extends downstream, through downtown Walla Walla, to Gose Street Bridge, River Mile 4.8. The Corps subsequently turned over operation and maintenance of a six-mile portion of the channel from the Division Works (RM 10.6) to Gose Street Bridge to the Flood Zone District. The MCWG, primarily through one of its member organizations (Tri-State Steelheaders), has proposed a program for site-specific alterations to the Flood Zone District-maintained portion of the Mill Creek channel to improve fish passage conditions. The Flood Zone District has endorsed alterations by the MCWG under this program, subject to engineering and environmental reviews. Because these actions would modify a structure constructed by the Corps, the modifications require Section 408 permission from the Corps.

The Corps has prepared a draft Programmatic Environmental Assessment (EA) that addresses potential environmental effects associated with the program of fish passage improvement actions that may be implemented by the MCWG, with endorsement by the Flood Zone District and subject to final Section 408 review by Corps.

**2. PURPOSE AND NEED**

The Corps is proposing to grant a series of permissions in accordance with Section 408 and EC 1165-2-216 (or its successors) for alterations to the Flood Zone District-maintained portion of the Mill Creek channel by the MCWG or its member organizations to improve fish passage. The purpose of the Section 408 permissions is to allow alterations to the Mill Creek channel to improve fish passage conditions while maintaining the integrity and original flood risk management purpose of the channel. The program is needed as the Mill Creek channel was not originally designed to provide adequate fish passage and can adversely affect populations of native salmonids in Mill

Creek, including two species that are listed under the Endangered Species Act (ESA) - Mid-Columbia steelhead and bull trout.

### **3. ALTERNATIVES CONSIDERED**

The Corps considered two alternatives in the EA:

- **Alternative 1 (No Action):** Under this alternative the Corps would not grant a series of Section 408 permissions for the Flood Zone District to allow the MCWG and/or its member organization to make alterations to the Mill Creek channel under their proposed fish passage improvement program within the six miles of channel maintained by the Flood Zone District.
- **Alternative 2 [Grant Section 408 Permissions for Fish Passage Program (Proposed Action/Requester's Preferred Alternative)]:** Under this alternative, the Corps would grant a series of permissions under Section 408 for the Flood Zone District to allow the MCWG and/or its member organizations to implement their fish passage improvement program. The MCWG proposes to make modifications to the entire 6-mile length of the Flood Zone District-maintained Mill Creek channel from the Division Works to the Gose Street Bridge. The Flood Zone District would have to submit plans for each phase of the program to the Corps for site-specific approval (Checklist of Requirements - Appendix A of the EA) prior to the MCWG and/or its member organizations starting construction of that specific phase.

### **4. ENVIRONMENTAL EFFECTS**

The Corps analyzed the potential effects of the Proposed Action/Requester's Preferred Alternative and the No Action Alternative to the following resources: Water Quality, Aquatic Environment, Threatened and Endangered Species, Cultural Resources, and Climate Change (Section 3 of the EA). The analysis concluded there may be some short-term adverse effects to water quality (turbidity) from the Proposed Action/Requester's Preferred Alternative during construction, but overall long-term effects on all analyzed resources would be insignificant or beneficial. Construction would take place in summer during low flows when fish are less likely to be present. Once completed, the alterations would improve passage conditions for fish and other aquatic organisms. The potential effects of the proposed action, when combined with the effects of past, present and reasonably foreseeable future actions, is not expected to result in significant effects to the resources identified above.

The Corps also considered the cumulative effects of the Proposed Action/Requester's Preferred Alternative along with other past, present, and reasonably foreseeable future actions in the Mill Creek channel. The Corps identified threatened and endangered fish species as the only resource that is notable for its importance to the area and potential for cumulative effects. Several efforts have been made by the Corps and other federal, state, local, and tribal entities to improve fish passage conditions. The Corps concluded implementation of the fish passage improvement program would have a net benefit to threatened and endangered species.

## **5. PUBLIC COMMENT/INVOLVEMENT**

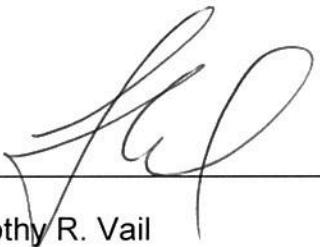
The draft EA and draft FONSI were made available to individuals, organizations and agencies for a 15-day review and comment period from March 25, 2016 to April 11, 2016. The District received five comment documents from interested members of the public and organizations. Most of the commenters expressed support for the fish passage improvement program. Some had questions about the Corps' process and requirements for granting Section 408 permission for the program phases. A summary of the comments and the Corps' responses are attached to this document.

## **6. COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

Section 4 of the EA provides a discussion of compliance with all applicable laws and regulations. The proposed action complies with applicable federal laws and applicable regulations. The MCWG and/or its member organizations would continue to request a Clean Water Act Section 404 permit from the Corps each time a phase of the program is proposed for Section 408 permission. The Corps has reviewed the joint programmatic biological opinion (BO) from U.S. Fish and Wildlife Service and National Marine Fisheries Service for Washington State Fish Passage and Habitat Enhancement and concurs the proposed MCWG program is consistent with the BO and therefore is in compliance with the Endangered Species Act. The Corps has also reviewed the National Historic Preservation Act Section 106 compliance performed by the Bonneville Power Administration (funding agency for some of the earlier phases of the MSWG program) and concurred with the finding of "no adverse effect".

## **7. CONCLUSION/FINDING**

Having reviewed the Mill Creek Fish Passage Project Section 408 Permissions EA, I find the document provides sufficient discussions on the purpose and need for the proposed action, alternatives, the environmental effects of the proposed action and alternatives, and a listing of agencies and persons consulted. I have taken into consideration the technical aspects of the project, best scientific information available and public comments received. These documents provide sufficient evidence and analysis to meet the Corps' requirements pursuant to the National Environmental Policy. Based on this information, I find that implementation of the Proposed Action/Requester's Preferred Alternative would not result in significant impacts on the quality of the human environment and that an environmental impact statement is not required. The Corps will implement Alternative 2, Grant Section 408 Permissions for Fish Passage Program (Proposed Action/Requester's Preferred Alternative), subject to final review of site-specific alterations to confirm compliance with Section 408, EC 1165-2-216, and the EA.



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Timothy R. Vail  
Lieutenant Colonel, Corps of Engineers  
District Commander

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04/21/14

Date

## **Mill Creek Fish Passage Project Section 408 Permissions Environmental Assessment**

### **Summary of Comments Received and Responses to Comments**

This report provides a summary of the comments received by the Walla Walla District Corps of Engineers (Corps) on its *Mill Creek Fish Passage Project Section 408 Permissions Draft Environmental Assessment (EA)* and *Draft Finding of No Significant Impact (FONSI)*, and the Corps' responses to those comments. The Corps distributed the draft EA and draft FONSI for a 15-day review. The Corps received a total of five e-mail messages commenting on the project.

The comments provided in the e-mails have been separated into five distinct comments. These comments are listed below with the Corps response included below each comment.

**Comment 1:** Support for the Mill Creek Work Group fish passage improvement program and allowing the projects to continue.

**Response:** Thank you for your comment.

**Comment 2:** Item 2 d) in the Checklist of Requirements for Permissions (Appendix A of the EA) should be modified. As the requirement is currently written, the alteration must not increase operation and maintenance needs or costs for the Mill Creek Flood Control Zone District (Flood Zone District). Because some of the conceptual designs are likely to need additional maintenance, the requirement should be changed to allow the Flood Zone District to decide if the amount of maintenance needed for an alteration is acceptable and make arrangements with the Mill Creek Work Group or some other third party for performing the maintenance.

**Response:** The Corps disagrees with the suggested change to the checklist. The Flood Zone District has indicated to both the Corps and the Mill Creek Work Group the proposed alterations must not increase their operation and maintenance needs or costs for the Mill Creek channel. The Flood Zone District also has the capability to set up agreements with the Mill Creek Work Group or other parties for performing maintenance of the fish passage modifications.

**Comment 3:** The efforts to improve the structural integrity of the Mill Creek channel downtown should be coordinated with the fish passage improvements planned for this same portion of the channel.

**Response:** The Corps agrees the proponents for these projects should coordinate their efforts should the opportunity arise. Should the Corps implement a feasibility study of the Mill Creek channel structural needs in the future, the Corps would coordinate with other interested parties. In the meantime, the Corps has representatives in the Mill Creek Work Group and maintains awareness of planned phases of the fish passage program.

**Comment 4:** Why has the Corps delayed granting Section 408 permission for the current phase of the fish passage program?

**Response:** Two issues had to be resolved before the Corps could grant Section 408 permission for the current phase of the program. The first was engineering concerns, which were resolved in March 2016. The second was a change in Corps regulations that now requires the Corps to perform environmental review of proposed alterations to all Corps-constructed projects prior to the Corps granting Section 408 permission. The preparation of the programmatic EA and the signing of the FONSI will complete this requirement. Because the Corps prepared a programmatic EA that addresses the environmental effects of the overall Mill Creek Work Group program of fish passage improvements, future phases of the program will not need to go through further environmental review by the Walla Walla District as long as the phases meet the conditions and requirements listed in Appendix A of the EA.

**Comment 5:** The Corps should consider the effects the Mill Creek improvements would have on the livelihood of nearby residents.

**Response:** The Corps did not identify any effects of the Mill Creek fish passage improvement program on the livelihood of nearby residents. Alterations made as part of this program would be within the footprint of the channel and would not affect nearby structures or residents. Alterations that increased flood risk would not be approved, therefore the program would not increase flood risk for nearby structures or residents.