



Oregon

Theodore R. Kulongoski, Governor

Department of Fish and Wildlife

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Dear Mr. Speaks:

Thank you for the opportunity to comment on the Cascade Locks Resort and Casino Draft Environmental Impact Statement (DEIS). The Oregon Department of Fish and Wildlife (department) has a number of comments on the DEIS. Our comments are divided into general and specific DEIS comments.

First, the department supports the proposed Cascade Locks alternative as it is within an industrial-zoned area within an urban growth boundary. For these reasons the proposed alternative minimizes effects to native fish and wildlife habitat. The department does however have several recommendations that will further reduce adverse effects on fish and wildlife and their habitat.

General Comments

The department based its review and recommendations for the DEIS on the following applicable Oregon revised statutes (ORS) and administrative rules (OAR).

ORS 496.012 Wildlife Policy
ORS 496.171 through 496.192 Threatened and Endangered Wildlife Species
ORS 506.109 Food Fish Management Policy
ORS 509.580 through 509.910 Fish Passage; Fishways; Screening Devices;
Hatcheries Near Dams

OAR Chapter 635, Division 100 provides authority for adoption of the State sensitive species list and the Wildlife Diversity Plan, and contains the Oregon Endangered Species Rules and the State list of threatened and endangered fish and wildlife species. Information, fish and wildlife species listed under the State Endangered Species Act can be found on the department's website at:

http://www.dfw.state.or.us/wildlife/diversity/threatened_endangered.asp. Also, information on the State sensitive species list for fish and wildlife is available on the

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department's website at:
http://www.dfw.state.or.us/wildlife/pdf/sensitive_species.pdf.

OAR Chapter 635, Division 415 classifies habitat into six categories and establishes a mitigation goal for each category. Under this rule, the department recommends that a project developer identify the appropriate habitat category for all project areas, provide the basis for each category selection, and then propose appropriate mitigation for the project-impacted areas, all subject to department review. A copy of the department's Fish and Wildlife Habitat Mitigation Policy (Mitigation Policy) can be found on the department's website at:
http://www.dfw.state.or.us/lands/mitigation_policy.asp.

Transportation, Parking and Fish Passage Issues

Based upon the drawings for the Herman Creek and I-84 bridge crossings, it appears that the project could trigger Oregon's fish passage laws. The department requests two levels of information to assess if a fish passage trigger will occur. The first information need is a volumetric determination of all bridge elements above, within and below the Herman Creek channel. These elements consist of any part of a bridge that supports or provides a roadway or provides structural protection (i.e. riprap). The second piece of information requested is a volumetric assessment of the proposed bridge expansion using the same methodology as the first information request. For assistance in the volumetric determination, the following is an excerpt from "Fish Passage Triggers for Bridges":

"For irregular or complicated forms (e.g., I-beams, hollow tubes, or other odd shaped bridge elements), either a rough outer volume or an actual volume may be calculated, as long as the same type of calculation is used for both work in question for the trigger and the entire structure to which it will be compared to determine the percentage".

This information should be provided to the department as soon as practically possible to ensure that the proposed design of the bridge meets state fish passage requirements for bridges.

Closure of East Cascade Locks, Westbound off-ramp. According to Oregon fish passage requirements (OAR 635-412), abandonment of an artificial structure triggers state fish passage law requirements. Accordingly, fish passage must be provided unless a waiver or exemption is sought. A fish passage plan, waiver or exemption request needs to be filled out and returned to the department for approval. This information can be found at <http://www.dfw.state.or.us/fish/passagel/>.

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Currently the Herman Creek Bridge is a constriction point in a broad floodplain. The DEIS references the constriction point on page 3-17 (3.3.1.3 Floodplains) and 3-25 (Herman Creek Riparian Area). The DEIS on page 4-29 (Long-term operational impacts) states that the project will have no effect on the 100 year floodplain of Herman Creek. The department believes that building more bents and scour protection below the ordinary high water line at this existing constriction point in the watershed will only worsen fluvial and habitat forming processes and ultimately have a negative impact on the 100 year floodplain of Herman Creek.

Plans to widen and create the new auxiliary lane and possibly a portion of the new interchange will impact existing Oregon Department of Transportation corridors. These corridors contain a number of large diameter trees. The department recommends that either: 1) trees >16" dbh be placed whole into Herman Creek to offset short and long term impacts to aquatic species, fluvial and habitat forming process and floodplain impacts, or 2) that trees > 16" dbh be bucked no shorter than 40' in length and stockpiled on-site for instream enhancement activities conducted by the department or the Oregon Department of Transportation.

Forest Lane Interchange: This interchange development will permanently eliminate 17 acres of mature, relatively undisturbed second growth forest that contains a dense understory of native shrubs. This habitat is also enhanced by its close proximity to riparian and open water habitats. The DEIS indicates that a number of amphibians, reptiles, birds and mammals utilize this area including the state and federally listed threatened Northern Spotted Owl. While the DEIS does explain this is listed as federal Critical Habitat and the likelihood for spotted owl use in immediate project vicinity is low, the DEIS also states that factors other than habitat quality are limiting owl use. These contributing factors are listed as land disturbances from historic activities and noise from I-84 traffic. Will disturbances from new activities and new noise associated with the new interchange push the owl habitat even further to the south and east?

These 17 acres of mature forest would be considered Category 3 habitat under the department's Mitigation Policy (OAR 635-415 0000 to 0025). The mitigation goal for Category 3 habitat is no net loss of habitat quality or quantity, mitigation of impacts if unavoidable, through reliable in-kind, in-proximity actions to achieve no net loss in either pre-development habitat quantity or quality. Additionally, progress towards achieving the mitigation goals and standards needs to be reported on a schedule agreed to in the mitigation plan performance measures. The fish and wildlife mitigation measures need to be implemented and completed either prior to or concurrent with the development action. The department requests that the FEIS include a mitigation plan for these impacts as well as other project impacts.

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Parking Facilities

The department recommends that the parking facilities be designed to have the smallest footprint possible to minimize the amount of wildlife habitat potentially impacted by this development. The FEIS should address the possibility of expanding the size of the parking garage to meet all the parking needs. If there must be a single level parking area, the FEIS should consider using pervious surfaces instead of traditional impervious pavement to reduce the potential for negative effects of storm water runoff on fish habitat quality in Herman Creek. Reducing impervious surface areas could also ultimately reduce the requirements for treating storm water runoff.

Specific Comments

The Department has a number of specific comments on the DEIS outlined below.

3.0 Affected Environment

Cascade Locks Site

3.3.1.2 Water Quality

The Columbia River is 303(d) listed for temperature and PCBs. Herman Creek is a tributary of the Columbia River and is not 303(d) listed. The proposed project site boundary is adjacent to both Herman Creek and the Columbia River. The proposed project site falls within the riparian areas of both Herman Creek and the Columbia River. Herman Creek provides cooler water to the Columbia River and may provide a critical cool water refuge for salmonids migrating in the Columbia River. The department recommends that the project boundary include at least a 100-foot development setback for Herman Creek. Riparian habitats are identified as a Strategy Habitat in the Oregon Conservation Strategy (OCS). Riparian habitats have declined from historic levels and are reduced in area and connectivity. Riparian habitats provide habitat for a variety of Oregon's fish and wildlife species - 60-80% of all Oregon wildlife use riparian habitats for at least part of their lifecycle.

3.5.1.1 Vegetative Communities

Disturbed Areas

The DEIS identifies an older stand of Oregon white oak trees within the project site. Oak woodlands are a Strategy Habitat in the OCS. Oak woodlands have been impacted by conversion to other land uses, invasive species and vegetation changes due to fire suppression. Oregon white oaks, particularly large trees are valuable to wildlife. The

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department recommends that the older stand of Oregon white oaks be retained within the project site. The remainder of the site consists of young conifer stands, weedy grasslands and shrubs.

Government Cove and Herman Creek Cove Riparian Forest and Shoreline Areas

The proposed project falls within Government Cove and Herman Creek Cove riparian areas. Riparian habitats are identified as a Strategy Habitat in the OCS. Riparian habitats have declined from historic levels and are reduced in area and connectivity. Riparian habitats provide habitat for a variety of Oregon's fish and wildlife species - 60-80% of all Oregon wildlife use riparian habitats for at least part of their lifecycle. The department recommends that the project boundary provide at least a 100-foot development setback for Herman Creek and Government Cove.

Government Cove Wetlands

The DEIS identifies a forested wetland within the Government Cove riparian area. Wetlands are identified as a Strategy Habitat in the OCS. Wetlands provide many functions beneficial to fish, wildlife and people. Wetlands provide habitat for a variety of fish and wildlife species, store water during high and low water seasons and increase water quality by trapping sediments and toxins. The department recommends that the project site avoid any impacts to the forested wetland. In addition the department recommends a 100-foot development setback to ensure the integrity and function of the wetland. Due to the mature nature of the forested wetland, mitigation for the impact to the wetland would result in a temporal loss.

3.5.1.2 Wildlife Species and Habitat

Department staff observed a variety of wildlife species during July and August field visits at the Cascade Locks site. As the department previously recommended, the applicant should conduct wildlife surveys during all four seasons to develop an accurate list of species including any state sensitive species that might be affected.

The FEIS should include the acreage of each wildlife resource habitat type. The FEIS should include a brief description of plant species (overstory, understory, herbaceous vegetation species), including non-native plant species. The list of wildlife species observed does not appear to be complete. The FEIS should include a description of the value of each habitat type to wildlife. The FEIS should also address habitat connectivity (e.g., presence/absence, existing values, limiting factors, opportunity for enhancements) along the shoreline and across I-84 to the gorge.

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The quote that migrating waterfowl have been observed wintering in Government Cove is somewhat misstated as thousands of wintering waterfowl use Government Cove in the winter.

There is no mention of the active purple martin colonies that inhabit the boxes on the pilings in Government Cove.

3-29. second Paragraph - Northern pikeminnow are a native species. Lamprey are generally not considered a "small nongame species" and should be included in the list of fish species present in the Columbia River.

3.5.1.3 Federal and State Listed Species

Bald Eagle: The DEIS includes reference to a known bald eagle perch tree. There is also a non active nest in the same tree. The FEIS needs to address what will happen if the nest site becomes active.

Fish Species: 3-31. Last Paragraph - Government Cove likely provides important off-channel rearing habitat for Chinook salmon and other species. Lamprey likely utilize Herman Creek also, especially the lower reaches.

Hood River Alternative

3.5.2.1 Vegetative Communities

Oak Woodlands: The OCS identifies EC-02 Wasco Oaks as a conservation opportunity area (COA). This COA is a valued dwindling wildlife habitat due to human encroachment.

3.5.2.2 Wildlife Species and Habitat

This site is located in big game winter range which the DEIS does not address. The department raised the issue in 2006. Any development at this site would move development approximately another mile east of existing development activities. This development would not only remove wildlife habitat, but the extensive human activity around this site would cause further harassment outside of the footprint area of the casino, roadways and parking areas.

Department staff observed a variety of wildlife species during January and February field investigations at the Hood River site. As the department previously commented, the applicant should conduct wildlife surveys during all four seasons to develop an accurate list of species including any sensitive species that might be affected.

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3.5.2.3 Federal and State Listed Species

Peregrine Falcon: There is a peregrine falcon nest approximately 1.25 miles east of the proposed casino site in Oregon. This information was previously raised in 2006.

Table 3-6 State-Sensitive Wildlife Species Known to Occur in Hood River County

The Lewis Woodpecker needs to be added to this list. It occupies the oak woodland habitats which would be affected by the alternate casino site.

4.0 Environmental Consequences

Hood River Alternative

4.3.3.1 Direct Impacts - Water Resources

4-30. Last Paragraph – It is likely that construction would have an effect on the hydrology or water quality. Option B describes effects that would have negative effects to the pond and seep.

4-32. 4th Paragraph – The department disagrees with the statement "...minor or isolated increases of pollutants in receiving waters...". The pond currently receives little or no pollutants. Runoff during large events could significantly increase amounts of pollutants into the pond.

Cascade Locks Alternative

4.5.2.1 Direct Impacts - Biological Resources

The second paragraph on page 4-48 states, "Adverse affects to wildlife during construction would be minimized through the implementation of mitigation and other regulatory requirements as outlined in Section 5.2.5". However, the proposed mitigation measures do not adequately address impacts to wildlife by the proposed development.

Federal and State Listed Species

Bald Eagle Page 4-49: The nearest active bald eagle nest is located 1.25 miles away from the proposed development. The FEIS also needs to identify what will happen if the inactive nest site (within 0.5 miles) becomes active.

Pg 4-51. First Paragraph - "Project construction would be required to comply with the Migratory Bird Treaty Act". The FEIS should address how this would be done.

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Hood River Alternative

4.5.3 Direct Impacts - Biological Resources

The DEIS does not address impacts to big game winter range. The FEIS needs to address what the impacts would be if the proposed development moves 1 mile further east into big game winter range from the closest dwelling or development.

Option A or Option B would remove 17 to 19 acres of mature trees. The DEIS does not address adequate mitigation measures for the loss of this big game winter range or mitigation for any other wildlife habitat loss.

Wildlife Species and Habitat Page 4-58

"Effects to oak woodlands would include the permanent removal of habitat for birds, mammals, invertebrates, reptiles and amphibians". In the OCS, EC-02 Wasco Oaks are identified as a COA and are a valued dwindling wildlife habitat due to human encroachment. The FEIS needs to address how this loss of habitat would be mitigated.

Federal and State Listed Species

Peregrine Falcon Page 4-59: There is a peregrine falcon nest approximately 1.25 miles east of the proposed casino site on the south side of I-84 in the Koberg Beach state park in Oregon. This information was previously provided in 2006.

State Sensitive Species

The Lewis woodpecker needs to be added to this list as occurring in the county and in the oak woodland habitats that would be removed under this alternative.

5.0 Mitigation

The mitigation measures associated with the proposed sites are not adequate. The Final Environmental Impact Statement will need to include a more thorough discussion of impacts and potential mitigation options including a mitigation plan.

Mitigation for the program's direct, indirect, and cumulative impacts should be planned and funded as an integrative package, to include acquisition (if needed), development, restoration and operation, maintenance, and management for the life of the project. The department recommends that mitigation adhere to the Department's Mitigation Policy.


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In general, the Hood River alternative site would have the most dramatic negative impacts to wildlife of any of the three sites. This site would remove the most amount of wildlife habitat, encroach on big game winter range, and have the potential to impact more sensitive wildlife species.

S-1.3.2. A pollution, sedimentation, and erosion control plan should be prepared for option B, similar to that described for the Cascade Locks option.

Thank you for the opportunity to comment on the DEIS. If you have any questions please contact me at (503) 947-6089.

Sincerely,



Patricia Snow
Land and Water Use Coordinator
Wildlife Division

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