

Willamette Water Supply

Our Reliable Water Future

Cornelius Pass Road Area Pipeline Project (PLW_ 2.1)

Questions & Answers Regarding Deer and Other Wildlife in Work Areas and Staging Area

Updated: February 14, 2023

Is the "recovery" plan as his statement suggested? If a healthy deer (or any other wild animal) strays into the work zone, will it be killed and removed? If not, what are the plan and procedure for recovery of healthy wildlife?

For the purposes of this project, "salvage" does not refer to dead animals, but to living wildlife. It is a term typically used in fish salvage (recovery of live fish) from aquatic work zones, and it has been applied colloquially to terrestrial wildlife as well. "Recovery" is perhaps a clearer term. In any case, the intent is to rescue or recover wildlife if they stray into work areas, and carefully move them to safe, similar habitats outside the work area.

It should be noted that no injury or mortality of wildlife has been detected during construction of the approximately 15 miles of pipeline that have already been installed for the project. Much of this pipeline occurs within relatively undeveloped habitats where a variety of wildlife are present, which indicates that the likelihood of mortality or injury of wildlife from future construction (including construction in OWNPs) is relatively low. Active construction tends to deter most wildlife, and the trench is fenced off at night for human safety as well as wildlife safety.

The plan and procedure for recovery of healthy wildlife is outlined in the Wildlife Plan as noted in the relevant sections included here.

Wildlife Plan, Page 22:

Objective 7: Recover Wildlife from Work Area, Trench, and Shafts, if Applicable

- **Measure 1:** Perform visual surveys of the fenced work area, open trenches, and shafts for wildlife prior to starting active construction each workday and recover any incidentally entrapped wildlife.
 - **Plan for implementation:**
 - Enhance Specification Section 01 57 00 Environmental Controls, subsection 3.10(C) Protection of Wildlife and Wildlife Habitat to include work area and trench/shaft inspection and wildlife recovery.
 - Implement wildlife recovery measures as outlined in the ODFW Wildlife Capture, Holding, Transport and Relocation Permit # CFO-2019-03, which will be approved by ODFW prior to construction.
 - Enhance Section 01 57 00 Environmental Controls, subsection 3.10(C) Protection of Wildlife and Wildlife Habitat to include training of select Contractor staff by a

qualified biologist to perform visual inspection and recovery, prior to starting construction in sensitive areas. Training should include clear limits on which species of wildlife trained Contractor staff can recover, and wildlife species that require a biologist to perform recovery. Contractor will coordinate with the WWSP's biologist (see Section 2.2) to document which species are salvaged, if any. The biologist will coordinate with the Environmental Compliance Lead (if they are not the same individual).

2.2.2 Plan for Monitoring (Pages 25 and 26 of the Wildlife Plan)

Monitoring on WWSP construction projects includes monitoring by WWSP staff, the Contractor, and by WWSP's independent environmental consultant, DEA. The plan for monitoring by each entity is summarized here.

For all WWSP construction projects, WWSP appoints a Project Construction Manager to administer and enforce the contract documents. The Project Construction Manager also coordinates with WWSP inspection staff and outside testing and inspection resources. WWSP Inspectors spend most of their time on the construction site observing the work and are responsible for preparing a daily report of construction activities and taking photographs of the work. The Inspector monitors the work for compliance with the contract documents and elevates contract interpretation issues to the Project Construction Manager.

The Environmental Compliance Lead has primary responsibility for monitoring the Contractor's compliance with the WWSP's goals and commitments related to environmental resources. The obligations of the Environmental Compliance Lead are defined in DEA's contract to the WWSP. The following are the key responsibilities of the Environmental Compliance Lead or qualified support staff for monitoring construction:

- Develop a brief memorandum* to describe methods for monitoring wildlife and wildlife protection measures during construction. Methods shall reflect the Contractor's specific plans for executing the work as documented in pre-construction submittals.
- Perform site visits weekly (or more often as needed to achieve objectives) to assess the following:
 - Whether the Contractor has correctly demarcated protected areas, buffers, and resources;
 - Whether the Contractor is conforming with project contract plans, documents, and permits, including measures described in Specification Section 01 57 00 Environmental Controls; and
 - If other conditions are present which may pose unacceptable risk of harm to wildlife or wildlife habitat.
- Document field activities and findings in a Site Visit Form (see Attachment 1) within one (1) business day.
- Participate in weekly construction coordination meetings to understand upcoming construction activities and adjust monitoring activities accordingly.
- Conduct fish and wildlife salvage, as needed.
- Perform on-site monitoring and inspection of tree protection by a certified arborist.
- Coordinate with APHIS to conduct nesting bird surveys and monitoring.

The Contractor also has responsibility for monitoring its own work. This includes the obligation to designate a “qualified person” to monitor all environmental controls on the work site. This qualified person shall have the authority to modify the Contractor’s operations to comply with Specification Section 01 57 00 Environmental Controls.

The memo mentioned above* is now available on the project website, and includes the following information (Pages 5 and 6):

Wildlife Passage and Entrapment Hazards

The general intent of the methods described in this memo is to prevent wildlife from entering active construction areas while maintaining wildlife passage through the TCE and OWNP. The location of protective fences will require constant on-site assessment and adjustments as work conditions change. The ECL will work with the Contractor, as needed, to design and implement fencing.

Sediment fencing will be installed along the TCE ahead of its ground-disturbing activities to prevent small animals from entering the TCE. If small animals do enter the trenches or shafts, additional measures will be implemented, such as providing ramps (of a number, type, and size acceptable to the ECL) for egress. The Plan identifies rabbits as a species that could be impacted during construction. No rabbit colonies have been detected within the TCE as of September 2022, but the ECL will continue to survey the TCE and vicinity.

A maximum of 150 feet of open trench is allowed at the end of each workday in order to reduce entrapment hazards. In addition, a minimum 8-foot-high chain link fence will be erected around open trenches and shafts at the end of each day. If wildlife gets past the fencing and attempt to cross open trenches, the ECL and Contractor will implement additional measures such as using taller fencing or placing plates (non-slip steel plates of a number, width, and spacing subject to approval by the ECL) across open trenches to provide crossing areas.

A chain link fence will be installed around the TCE along NE Cornelius Pass Road, the Rock Creek Trailhead parking lot, and the Cherry Lane Staging Area to discourage wildlife from entering the roadway and to redirect them toward the Rock Creek riparian corridor, as shown in design drawings EC-12 and EC-13.

The Contractor will inspect the TCE daily before beginning work. Any wildlife trapped within the TCE will be removed by following the guidelines from the ECL training and the ODFW Wildlife Capture, Holding, Transport and Relocation Permit #CFO-2019-03. The Contractor will report wildlife encounters to the ECL.

If a deer or other wild animal strays into the work zone and is injured, will it be killed and removed? If the plan is to kill the animal, who will make the determination, what are the criteria for making that decision, and who will do the killing? If it is determined that an injured wild animal can be saved, what is the plan for "recovery" for the animal?

It depends on the wildlife species. Most large mammals will avoid the work area and with fencing of the open trenches it is unlikely that wildlife would fall in and get injured. As mentioned above, no injury or

mortality of wildlife has been detected during construction of the approximately 15 miles of pipeline that have already been installed for the project. If a deer or other large mammal gets hit on the road because construction pushed them there, the Oregon State Police would deal with that situation. Smaller wildlife would be taken to the Audubon Society Rehabilitation Center. Anything smaller (such as amphibians or reptiles) would be unlikely to survive an encounter with large equipment and there is no place that could treat them so they would be humanely euthanized if they are too injured to be released (which would be at the discretion of the ECL). The intent of the Wildlife Plan is to keep wildlife out of the area, and daily inspections before construction begins are designed to avoid wildlife injury by moving them safely outside the work area before construction begins. A record of this (and all recovery efforts) would be included in the annual CHTR report submitted to ODFW.

Will the work site be inspected before work starts each day to determine whether any wild animals have strayed into the work zone? If so, who will do the inspection?

As noted in the Wildlife Plan, the Contractor will inspect the TCE (construction area) daily before beginning work. Any wildlife trapped within the TCE will be removed by following the guidelines from the ECL training and the ODFW CHTR Permit. The Contractor will notify the ECL (and WWSP inspectors) immediately if wildlife needs recovery and will document all recovery activities.

Who will perform "recovery" (generally understood as capture, holding, transport, and relocation)? Will it be contractor staff, the environmental lead, or representatives of ODFW?

The ECL (Phil Rickus) will conduct recovery of wildlife when he is available. Since the ECL cannot be on site during every day of construction due to other responsibilities, Mr. Rickus will train the Contractor staff in wildlife recovery methods of recovery of wildlife if he cannot be present. In addition, WWSP construction inspectors are present in the vicinity of the project during active construction and will help ensure that any recovery efforts are implemented as quickly and effectively as possible. All recovery actions will be documented in the annual report submitted to ODFW.

Can we assume that the same "recovery" measures will be taken to protect wildlife all along the PL 2.1 pipeline route from the nature park north along the old rail line? That area, including the field where the staging area will be located, is an extension of the wildlife corridor. The deer have now returned there, very likely because the initial construction activity in the park has driven them out to the north. If different measures will be taken in this area, please let us know what will be done.

Yes, the same measures will be taken along the pipeline route and at the staging area.

I notice in the Wildlife Protection Plan (WPP), there is a reference to a required ODFW Wildlife Capture, Holding, Transport and Relocation Permit (CFO-2019-03). Who has applied

for that permit? Has that permit been approved? To whom do I submit a request for a copy?

The Wildlife Capture, Holding, Transport and Relocation (CHTR) permit for the project was applied for by DEA (Mr. Rickus) on behalf of WWSP. It was first approved in 2019, and has been renewed annually since that time. The CHTR renewal application for 2023 was received by ODFW on December 22, 2022, and is still being processed by ODFW (who are operating with limited staff). I have contacted ODFW to request a permit renewal completion date, and it will be made available when it is received (it usually takes several months).

We have noticed groups of deer moving north through OWNP and into the open field and berm behind our homes. This is occurring after the clearing work that has been completed in OWNP in preparation for construction.

Concern: the open field will have pipeline construction equipment being moved in very soon, February. The deer moving through the field from OWNP and behind our homes must be given safe passage out of this area before constructing fences and moving heavy equipment into the area.

Please provide your plan for providing safe passage for this wildlife. We have been taking video of the groups of deer and their movement.

The *Wildlife Protection and Adaptive Management Plan for Orenco Woods Nature Park* (Wildlife Plan) is the current plan to limit impacts to wildlife, including deer. This plan will be adapted as needed to limit impacts to wildlife.

Currently, the primary deer migration corridor in the vicinity of OWNP is along the Rock Creek corridor, passing from the riparian area (and staging area) under the TriMet railroad bridge and into OWNP. In winter, deer tend to gather in larger groups to utilize low elevation winter habitats, which includes the staging area. As spring progresses, they tend to disperse from larger groups and head to higher elevations to take advantage of warmer weather and spring forage opportunities. Therefore, it is anticipated that the larger groups recently seen in the staging area would tend to disperse in February and March as the staging area is integrated into construction. More importantly, they have the Rock Creek corridor to escape to as construction begins. These urban deer are well accustomed to moving away from disturbance and avoiding traffic.

The staging area will be fenced and the staging area will not be available for wildlife during construction. There is no way to avoid this- the staging area is needed for construction and wildlife need to be excluded for their safety. However, as noted in the Wildlife Plan, the following measures will be implemented to reduce impacts to wildlife and reduce risk of wildlife entering roadways, including Cornelius Pass Road.

Objective 4: Minimize Obstacles to Wildlife Passage Along Rock Creek and Beaverton Creek Corridors

- **Measure 1:** Limit wildlife disturbance.
 - **Plan for Implementation:**

- Implement measures in Objective 5, which require fencing around open trenches and shafts and limit the length of open trench to be fenced to 150 feet or less. Maintain access to habitat along the Rock Creek and Beaverton Creek riparian corridors outside of the fenced work area.
 - Designate the area around the TriMet light rail bridge over the Rock Creek riparian corridor as a “no-work” zone on relevant design drawings. The Rock Creek riparian corridor under the bridge is likely the area used most by wildlife moving into or out of OOWNP along the Rock Creek riparian corridor; keeping construction activities out of this area will minimize disturbance to wildlife passage.
 - Designate storage areas for construction equipment on relevant drawings to minimize visual disturbance to wildlife passage, to the extent practicable.
 - Enhance Specification Section 01 57 00 Environmental Controls to require the Contractor to not use nighttime lighting outside of the staging area or perform work in OOWNP or other key habitat areas covered in this Plan at night.
 - Work with Hillsboro and Metro to limit or prohibit public access in OOWNP in the vicinity of construction to minimize the number of potential disturbances to wildlife.
- **Measure 2:** Prevent or deter wildlife from entering NE Cornelius Pass Road or NE Cherry Lane.
 - **Plan for Implementation:**
 - Install and maintain a 6-ft chain link fence (with top rail or similar) along the NE Cornelius Pass Road frontage from the southern edge of the Rock Creek Trailhead parking lot, north to the bridge rails on the western side of NE Cornelius Pass Road, to discourage wildlife from entering the roadway to avoid construction and redirect them toward the Rock Creek riparian corridor.
 - Install and maintain a minimum 8-ft chain link fence extending from the staging area along the length of the Cherry Lane Fire Station Driveway frontage and extending slightly east to discourage wildlife from entering the roadway from the Rock Creek riparian corridor.
 - Install and maintain a 6-ft chain link fence (with top rail or similar) along the NE Cornelius Pass Road frontage at the northern and southern bridge rails on the western side of NE Cornelius Pass Road, to discourage wildlife from entering the roadway to avoid construction and redirect them toward the Beaverton Creek riparian corridor.

These fences are intended to provide safe passage for wildlife (including deer) from the berm east along the south side of the fence (between the staging area and the TriMet tracks) toward the relative safety of the Rock Creek corridor.

As outlined in the Wildlife Plan, we will continue to monitor and adapt as needed. For instance, if deer are found to be moving onto roadways more than usual, we will conduct site visits to determine the specific cause and potential remedies for this movement.