
Letter of Intent

By and Between

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE,

WILD FISH CONSERVANCY

and

DRAINAGE DISTRICT #7

Restore Waterwheel Creek, Cherry Valley Unit, Duvall, WA

The following letter outlines key issues to be addressed prior to restoration of Waterwheel Creek on the Cherry Valley Unit of the WDFW Snoqualmie Wildlife Area by Wild Fish Conservancy (WFC) during the summer of 2012. Also occurring in summer of 2012 on the Cherry Valley Unit is a repair and replacement of existing culverts. This project has a rich history not fully addressed in this letter though a brief summary is included below. Due to the lengthy history of the proposed project, it is critical that all parties agree to the key aspects left to negotiate. If the conditions listed in this letter are met, then Drainage District #7, Wild Fish Conservancy and the WA Department of Fish and Wildlife intend to jointly sign a Memorandum of Agreement (MOA) by December 15, 2011 allowing final design of the project to commence in 2011 and construction of the restoration project to commence in 2012.

By signing this letter of intent, all parties attain more certainty that their key concerns will be met. For instance, WFC needs certainty that an MOA will be signed prior to the time consuming permitting process begins. Drainage District #7 needs their drainage and access issues addressed to their satisfaction. WDFW requires that any liabilities and adverse conditions that affect the use and users of the property resulting from this project be eliminated in a timely manner, either through proper design or adaptive management. The parties agree in good faith to collaborate with the other parties involved and intend to use a consensus model of decision making to determine elements of the adaptive management plan and the Memorandum of Agreement.

The Waterwheel Creek restoration project began in 2004 during the final stages of the compliance agreement between the National Oceanic and Atmospheric Administration/National Marine Fisheries Service and King County Drainage District #7. At that time, the Drainage District replaced several pieces of their infrastructure to improve fish passage between Cherry Creek and their ditches. Wild Fish Conservancy began a scoping effort and eventually gathered a suite of Cherry Valley-specific information products including: detailed fish species composition and distribution data; hydrologic and hydraulic modeling data; floodplain and channel topographic data; plant survival data; water quality data; and conceptual restoration designs.

All of this information was eventually distilled into a plan to restore Waterwheel Creek which flows north from the neighboring hillside, onto the WDFW Cherry Valley Unit and into Lateral B to Lateral A and into Cherry Creek. Lateral B is owned by King County for the purposes of the Drainage District and therefore their permission is required for the restoration of Waterwheel Creek.

All parties support the restoration of Waterwheel Creek for the following reasons:

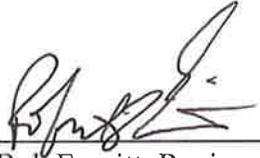
1. The modeling suggests that the restoration project will result in the same or better drainage within Cherry Valley Unit and on surrounding properties.
2. Chinook and Coho salmon, as well as juvenile steelhead trout, have been documented in the Cherry Valley Unit. Puget Sound Chinook and steelhead are listed as threatened under the ESA. The project as designed would improve significantly compromised fish habitat within Cherry Valley.

All parties intend to work collaboratively on the issues listed below such that a Memorandum of Agreement is signed by December 15, 2011:

1. All parties support the Wild Fish Conservancy restoration design dated 1/28/2011 subject to the following changes:
 - a. Vehicular access across a bridge spanning Waterwheel Creek that will be designed and funded by WDFW.
 2. A signed 3-5 year management plan outlining the following:
 - a. Specific restoration goals and pre/post project measurements of success like drainage that is the same or better, fish use etc.
 - b. Specific quantitative triggers developed collaboratively between WDFW, WFC and DD#7, based on appropriate goals and pre/post measurements that result in specific actions to address adverse conditions. Specific actions may include recreating Laterals B, C, D or their equivalent.
 - c. DD #7 will be responsible for pump and drainage infrastructure operation and maintenance.
 - d. A general HPA for up to 5 years which clarifies how and when in-channel work can be done, including beaver management that will include all of Drainage District #7's system.
 - e. All parties intend to work diligently to implement the adaptation management plan if there are negative consequences on adjacent properties.
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3. WDFW and DD # 7 management of the restoration site will be consistent with the habitat requirements of native fish and the goals of the restoration project.
 4. Creation of a financial instrument to help pay for actions necessary to address adverse conditions that may occur. This instrument would preferably take the form of a performance bond though a maintenance grant would also be acceptable.
 5. Mechanisms designed to appropriately allocate risk of liability to the parties. During construction and for the years of adaptive management, WFC will procure liability insurance that names the State as an additional insured and indemnifies the State for negative impacts resulting from construction. During construction phase, DD #7 will also be indemnified. Additional details will be developed collaboratively by Oct. 30th.

Though other issues will likely arise, the above conditions constitute the most important issues to resolve prior to signing a Memorandum of Agreement.



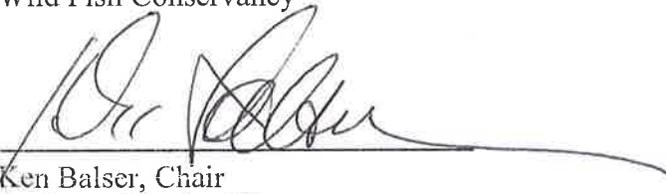
Bob Everitt, Regional Director
WA Department of Fish and Wildlife

10-13-2011
Date



Kurt Beardslee, Executive Director
Wild Fish Conservancy

10-14-11
Date



Ken Balsler, Chair
Drainage District #7

10/31/11
Date