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Fish First

The hardest part of restoring endangered fish is getting the permit.

By Ted Williams

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As the salmon and steelhead of our Pacific Northwest plummet toward extinction, America responds with a major commitment to . . . paper shuffling.

Recovering these fish requires dam removal, hatchery removal, habitat restoration, enforcement of land-use laws, water allocation, draconian harvest controls. The treatment isn't mysterious or complicated, just distasteful to powerful special interests—so distasteful that the states and federal government have refused to administer it. Therefore the fish have been listed under the Endangered Species Act. And because they are listed under the Endangered Species Act, private groups willing to help by restoring stream habitat at their own expense are being denied permission.

There are lots of examples, none grosser than the straitjacketing of Fish First, a volunteer organization hatched in 1995 by legendary rod maker Gary Loomis for the purpose of restoring salmonids to the Lewis River drainage, which feeds the lower Columbia in southwest Washington State. The mission statement, soon to prove grotesquely ironic, was "More and better fish with no politics." Wishing to avoid the common blunders of amateur stream doctors, Fish First sought the help of professionals. Biologists from the Washington Department of Fish and Wildlife and the US Fish and Wildlife Service provided guidance and advice. With net pens and egg boxes Fish First augmented the department's stocking efforts of steelhead, chinook and cohos, then moved to habitat projects of more lasting worth.

One of the first major successes was opening seven miles of spawning habitat by replacing a culvert 11 feet wide and 286 feet long that, since 1955, had been sealing fish out of Cedar Creek. Soon Fish First was hiring its own professionals, among them consultant Richard Dyrland, former hydrologist for the Forest Service's Intermountain Region, who had directed hugely successful stream-restoration projects all over the West and who is a colleague of David Rosgen, arguably the continent's leading authority on fish-habitat enhancement. Among the biologists providing technical assistance and monitoring projects was Travis Coley, the Fish and Wildlife Service's team leader for salmonid habitat and natural production for southwest Washington. It was clear to anyone paying attention that Fish First wasn't fooling around.

When the Lewis basin was first timbered, splash dams were built on tributaries so that logs could be flushed toilet-style to the mills. This blew out pools, riffles, gravel and large woody debris. Over time, the streams might have repaired themselves and recruited more gravel and wood, but now landowners who control the floodplains won't allow it. If the current starts eating into their land, they armor the banks or bevel them so the water floods instead of cuts. Basically, the streams are locked in place, and the only way they're going to produce spawning and rearing habitat for salmonids is if qualified stream doctors operate on them.

So Fish First has been putting in Rosgen-designed cross-vanes--rocks or logs that form a V, with the apex facing upstream. Ahead of these Vs it deposits gravel. Using old data and photographs, Fish First approximates natural pool-riffle ratios, redigging pools and recreating riffles. It plants root wads in the banks. It promotes bank healing with Rosgen-designed J-hooks that reach halfway across the river, shunting fast water to the center and slow water to the sides. It opens up side channels, where juveniles can find refuge from the unnaturally swift current.

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In October, 2000 Fish First placed gravel above a wood cross-vane in Cedar Creek. Dyrland hadn't even had a chance to wire the logs together when he heard splashing. "Damn it," he said to himself. "The beavers are up here already, messing up the logs." He waded back out to the gravel, but instead of beavers he found two spawning chinooks "wallowing like pigs." "After that," he told me, "chinooks, cohos and steelhead came up in waves. We had 37 redds in 1,200 feet of new gravel, and when the eggs hatched the side channels we'd opened up were just packed with fry." This in a section that hadn't seen a spawning fish for 20 years.

The locals who live along the tributaries tend to dislike and distrust government people, especially feds. If one appeared on their property asking, for example, to fence cattle out of the stream, he'd probably get the bum's rush. But they welcome—in fact, invite—Fish First members because they are the locals. When Fish First cleaned up two nasty dairies on Chelatchie Creek, fencing out cows, building bridges, planting trees and routing runoff past manure, it also reclaimed pastures, creating a net gain. Naturally, the farmers were delighted.

Fish First, now with a membership of 450, raises its own money with an annual banquet and wins grants from private and public sectors. So far it has spent about \$1.5 million restoring Lewis River salmonids; and everyone in a position to judge, including the Washington Department of Fish and Wildlife, says the benefits are plainly visible. So respected is Fish First by fisheries professionals that some of its bigger grants come from the US Fish and Wildlife Service and the Lower Columbia Fish Recovery Board. Rep. Brian Baird (D-WA), a proven friend of the environment, goes so far as to call Fish First's work "remarkable." "It's clear that they understand where fish thrive and grow and live," he told me. "I have found them to be one of the most dedicated, hardworking, sincere and effective volunteer organizations that I've ever had the privilege to work with."

Well then. One might suppose that the bureaucrats of the National Marine Fisheries Service (NMFS), to whom we have entrusted our vanishing salmonids, would be cheering Fish First for doing their work for them and, at the same time, turning themselves inside out to speed the group's project permits. But it takes Fish First longer to get the permits (sometimes a year or two) than to do the projects themselves.

The Endangered Species Act of 1973, the first major expression of an ecological conscience by any society and the first effective effort by our species to preserve the planet's genetic wealth, has been a beacon for the world, inspiring similar statutes in other countries and serving as a blueprint for the Convention on International Trade in Endangered Species. Despite what its enemies would like the public to believe, it has never failed. What has failed is enforcement and implementation. Under Section Seven of the act the "action agency" (in this case the Army Corps of Engineers because it issues Clean Water Act permits for instream work) must, in cases where it decides the proposal might affect the resource, write a biological assessment and present it to the agency which supposedly looks after the resource (in this case NMFS). NMFS must then consult with the Corps and either concur or write a biological opinion.

If Fish First waited for the Army Engineers to write their own biological assessments, the Corps might get around to doing so in, say, five years. So at its own expense, Fish First writes the assessments for the Corps, doing a meticulous job so that a lot of the information can be cut-and-pasted into NMFS's biological opinions. Still, the permits get hung up in the bureaucratic mill. Part of the reason is that the ESA listings caught the agencies off guard (though they might have seen them coming had they been more concerned and committed). Another part of the reason is that Congress doesn't think the resource is important enough to provide funding for the necessary staffing. And yet another part, to quote an audit by the Inspector General of the US Department of Commerce (NMFS's parent organization), is the "unnecessarily arrogant and confrontational" conduct of NMFS. The audit, based on interviews with 34 government, tribal and industry officials, went on to scold the agency for dawdling with biological opinions and for ignoring local fish-habitat enhancement efforts.

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"In places where we used to shock the river for 1,400 feet and get maybe half a dozen salmon and steelhead fry I can now show you thousands," says Gary Loomis. "We get trophies and plaques from the governor and everyone else. But they can't help us get permits. We're down to one project a year; two years ago we didn't even get one. We could do six or seven a year if we could just get the permits. All we're doing is giving the fish what they need. It's not like we're building shopping centers."

Loomis, Dyrland and Fish First director Jack Kaeding complain about NMFS biologists, fresh from school and with no field experience, who can't read engineering plans, who say the settled, manipulated, tree-impooverished tributaries need to recruit their own gravel and large woody debris and who proclaim (with no supporting evidence) that Rosgen methodology won't work on the west side of the Cascades.

"We'd love to have the rivers fix themselves," says Dyrland, "but natural isn't going to do it. We'd have to move all the houses back half a mile, pull out all the culverts and bridges, then wait 500 years for the big trees to grow, die and fall into the water. If Rosgen designs won't work here, how come they're working everywhere else?"

"We're at the end of the line with these species. The money is being spent—we're talking three or four-hundred million bucks, plus all the stuff from Bonneville Power and Northwest Power—but it's going to the bureaucracy, not the fish. We're just squandering opportunities. The federal government seems committed only to process, not product."

But could it be that Fish First is an enfant terrible ill-schooled in realities of federal paperwork? To find out I contacted Don Glaser, President of Friends of the Cowlitz, a lower-Columbia, Washington State group that does work similar to that of Fish First. "I could tell you war stories that would choke a horse," he said. "NMFS and the Corps are just awful. Permits can take two years." Dan Shively, who runs the fisheries program on the Mt. Hood National Forest in Oregon and serves on the recovery team for ESA-listed salmonids for the Willamette and Lower Columbia, has only unpleasant memories of Section Seven consultations with NMFS. When he was on the Gifford Pinchot National Forest he had to forgo a whole year's worth of habitat restoration for listed summer steelhead in the Wind River basin because he didn't get a biological opinion back from NMFS. "It's a long, slow, tedious process," he remarks. "You talk to any fish biologist in the Forest Service or BLM in Washington, Oregon, Idaho or California and you'll immediately sense dissatisfaction. What's so frustrating is that we know what needs to be done and no one wants to talk seriously about doing it."

The Fish and Wildlife Service's Travis Coley, also on the recovery team, agrees. "People right out of college get those [NMFS] jobs," he told me. "They're not politically savvy. They have to cut deals with people who have money, and sometimes they take it out on the little guy. Neophytes tend to be skeptical; they get up on their scientific soap boxes. All over the Northwest you hear how difficult it is to deal with them. They say things like Rosgen methodology won't work here. Water still runs downhill doesn't it?"

When Coley did the biological assessment for the Corps on Fish First's Chelatchie Creek project NMFS biologists told him he couldn't monitor fish with electro-shocking gear without going through another consultation. But the Fish and Wildlife Service was already monitoring brook lampreys and Pacific lampreys on Chelatchie Creek with electro gear. Why not just count the stunned salmonids that floated up, asked Coley? No, said NMFS. After the Chelatchie permit had incubated a year in the federal bureaucracy Fish First sought help from Rep. Brian Baird. Three days after Baird's phone call to NMFS brass the permit came through. According to NMFS, all the paperwork was basically done and the phone call had nothing to do with the permit's sudden appearance.

"There's a very tight window when we can do work because of weather and the fact that many of these streams have spring and fall runs," says Baird. "You can only be in the stream for a short period or you'll impede the down-running fish or the incoming fish. So if a permit is delayed and that window is missed, it creates a cascade of problems."

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Even as the federal bureaucracy binds the feet and hands of those who would restore salmonids it facilitates large-scale salmonid destruction, particularly if the destroyers are rich and powerful. On the East Fork of the Lewis River, for example, NMFS is helping J.L. Storedahl & Son's, Inc., prepare a "habitat conservation plan" so that it can proceed with a 4,000-ton-a-day expansion of its gravel mine, thereby tripling the size of its operation. Under Section Ten of the Endangered Species Act landowners and industries can be granted permission to kill endangered species if they mitigate the damage elsewhere. Habitat conservation plans are a good idea, and sometimes they work fine; but in this case the mitigation is a sham. Commenting to NMFS on the plan, the Washington Department of Fish and Wildlife wrote, "Mining activities in the Channel Migration Zone are not compatible with long-term goals for management of naturally functioning river systems." The agency went on to state that the damage cannot be mitigated, citing a "huge potential for long-term degradation" of fish.

Considering Storedahl's abominable environmental record, it astonishes me that NMFS would even consider allowing the expansion. Already gravel and untreated storm-water spill into wetlands. The site is littered with bleeding oil tanks and other debris. David T. McDonald, attorney for Friends of the East Fork—an outfit that works closely with Fish First—reports that the company has operated for 10 years without a required shoreline permit and charges it with non-permitted diversion of Dean Creek into a slurry pond (thereby wiping out an important spawning area for chum salmon), and non-permitted outflow of that slurry pond into the river.

Three years ago Friends filed a Freedom of Information Act request with NMFS and the Fish and Wildlife Service for all public records involving Storedahl and its nascent habitat conservation plan. The agencies withheld the information (illegally, the Justice Department later ruled), informing Friends that Storedahl was "uncomfortable" with sharing it. Of course it was uncomfortable. When the river hits the existing mine complex it widens from 50 feet to 300 feet, running warm and shallow over old scars. In February 1996 it rushed over the destabilized floodplain, tearing out a mile of spawning habitat and rerouting itself through abandoned mining pits, now full of squawfish and bass that swill salmonid fry and smolts. As the Washington Fish and Wildlife Commission has declared by unanimous resolution, "gravel mining should not occur in riverine floodplains."

"Any great salmon river has a chum run," says Loomis. "Chum fry are the food source for everything else. Mining has wiped them out. You can go into the river above the slurry ponds, and you won't find any slime. You go in below and you'll find slime coating almost every bar, wiping out spawning habitat. It's the flocculants they dump into the ponds to wash the gravel."

Because of the proposed gravel-mine expansion American Rivers has listed the East Fork of the Lewis as one of the 13 most endangered rivers in the nation. After hearing the frustrations of good people trying to recover ESA-listed salmonids I decided to have my own consultation with NMFS, placing a call to Steve Landino, branch chief in Washington State. I told him I wanted to hear the agency's side of the story and that I hoped he could ease a few of my concerns. Landino said he didn't think it was "a good idea" to write an article about all this, then dispensed blame and excuses.

"The Corps has to satisfy their Endangered Species Act obligation," he said. "So they will hold that permit request, work on it to fit their requirements and our requirements for the biological assessment they have to produce. It sits at the Corps while they're doing that. Fish First blames us for that, frankly. So we take a bad shot when we don't need to get one.

"At some point the Corps forwards that biological assessment to us, and then we consult on it. Fish First is very active in calling everybody during that process. Sometimes we'll be spending a great deal of time on the phone with them instead of working on the permit.

"Last year Congressman Baird's office got involved. It would go better if Fish First would design their projects to comply with the programmatic [mechanisms by which a batch of similar projects can be approved at once]

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that we've already completed. But they are pretty much sold on their way. I certainly want to get their programs done, but it's not all our fault that it doesn't happen as fast as they want it to."

But next morning Landino surprised me—pleasantly. He called back, said it had been late in the day and he'd been tired, and requested a conference call with himself, his staff biologists, me, Loomis, Dyrland and Kaeding.

During the conference call Landino proved himself a skilled bureaucrat in the best sense of the word, adroitly deflecting acrimony and old complaints and keeping the discussion focused on solutions. He sounded like a different man. He revealed that for Fish First projects there were alternatives to Section Seven--perhaps Sections Ten or Four. Neither requires a federal agency like the Corps to get into the mix. Programmatics were a possibility under these sections, too. Projects would be "really, really streamlined," he said. Finally, he suggested that Fish First meet with him and his staff. I heard the sound of flipping calendars, a date being set (January 30), then copious noises of satisfaction.

As we cordially signed off I said: "I know you gentlemen will work all this out and that these projects will start sailing along." That was a white lie, I guess. But at least I hope.