

To: Aron Borok
From: Ann Vileisis, Kalmiopsis Audubon Society; Barbara Ullian, Friends of the Kalmiopsis;
Michael Dotson, KS Wild
Date: June 3, 2024
Re: Follow-up on Illinois River ORW nomination

Dear Aron,

We are writing in response to your request for more information to augment our ORW nomination for the Wild and Scenic Illinois River in SW Oregon. You asked for additional discussion of “potential environmental, social and economic benefits and impacts of ORW designation” and more specifically about how upstream activities might be impacted by the Clean Water Act requirement that Oregon “ensure attainment and maintenance of the water quality standards of downstream waters,” in this case the Wild and Scenic reach of the Illinois River.

In particular, you asked about how water withdrawals, operations on the private forestry holdings, and construction within Cave Junction and surrounding communities might be affected by ORW designation.

We will address these in turn:

Water withdrawals

The Illinois River is somewhat unique in that there is a more densely developed area upstream of the proposed ORW. This means that there are water withdrawals that occur upstream of the proposed ORW reach.

However, a review of water availability via the Oregon Water Resources Water Department (OWRD) interactive water mapper reveals that, at this point, the river is already fully appropriated upstream of the proposed ORW reach for nine out of twelve months, including the late-summer, low water months when diversions are most likely to contribute to degradation of water quality.

Water Availability Analysis

ILLINOIS R > ROGUE R - AB JOSEPHINE CR

ROGUE BASIN

Watershed ID #: 72843 (Map)

Date: 5/24/2024

Water Availability as of 5/24/2024

Exceedance Level: 80% ▾

Time: 3:29 PM

Water Availability

Limiting Watersheds

Complete Water Availability Analysis

Water Availability

Select any Watershed for Details

	Nesting Order	Watershed ID #	Stream Name	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
Select	1	266	ROGUE R> PACIFIC OCEAN- AT MOUTH	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	Yes	No	Yes	Yes
Select	2	72845	ILLINOIS R> ROGUE R- AT MOUTH	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No	Yes	Yes
Select	3	72844	ILLINOIS R> ROGUE R- AB KLONDIKE CR	No	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No	No	Yes
Select	4	31531104	ILLINOIS R> ROGUE R- AB PANTHER CR	No	Yes	No	No	Yes	Yes	No	No	No	No	No	No	Yes
Select	5	72843	ILLINOIS R> ROGUE R- AB JOSEPHINE CR	No	Yes	No	No	Yes	Yes	No	No	No	No	No	No	Yes

Moreover, there are designated instream rights established in this reach (upstream of the nominated reach), held by OWRD, with priority dates of 1983 and 1992 (source, OWRD, Water Availability Analysis for Illinois upstream of Josephine Creek).

Detailed Report of Instream Flow Requirements												
Instream Flow Requirements in Cubic Feet per Second												
Application #	Status	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
MF256A	CERTIFICATE	130.00	130.00	130.00	130.00	90.00	60.00	0.00	0.00	0.00	0.00	160.00
IS72843A	CERTIFICATE	220.00	220.00	220.00	220.00	220.00	130.00	87.00	62.00	62.00	94.40	220.00
Maximum		220.00	220.00	220.00	220.00	220.00	130.00	87.00	62.00	62.00	94.40	220.00

For these reasons, it is unlikely that there will be any additional legal water diversions that would impact water flow in the Illinois. A possible exception could be that there would be requests for future groundwater pumping that could potentially impact the river's flow. However, ORWD would need to consider the water rights of all senior water rights holders before permitting additional diversions. There have been recent situations where unauthorized and illegal groundwater withdrawals by cannabis farmers have likely exceeded limits. This is a matter that community members and OWRD have been aiming to better control. ORW designation of the Wild and Scenic reach of the Illinois would have no effect on current legal water users. It could possibly be an additional tool in addressing illegal water diversions if they are documented to degrade water quality and so could impact non-authorized uses of water.

Finally, there are also substantial and well-established instream water rights in the nominated reach held by the OWRD for "the purpose of supporting life and minimizing pollution" (priority date 1959, MF257A), and additional rights in the reach from Klondike Creek to the river mouth to provide "required stream flows for migration, spawning, egg incubation, fry emergence, and juvenile rearing" with a priority date of 1992 (IS72845A).

Detailed Report of Instream Flow Requirements												
Instream Flow Requirements in Cubic Feet per Second												
Application #	Status	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
MF257A	CERTIFICATE	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00
SY91501A	SWW	1,500.00	1,500.00	1,500.00	1,500.00	800.00	130.00	87.00	130.00	220.00	1,500.00	1,500.00
IS72845A	CERTIFICATE	850.00	850.00	850.00	850.00	500.00	400.00	335.00	249.00	206.00	352.00	850.00
Maximum		1,580.00	1,580.00	1,580.00	1,580.00	880.00	400.00	335.00	249.00	206.00	352.00	1,580.00

Operations on Private Forestry Holdings

The majority of the land in the Illinois River watershed falls under ownership of federal land management agencies, including primarily the US Forest Service, but also the Bureau of Land Management and National Park Service (at Oregon Caves). Much of the public land lies within the wild and scenic reach and tributary watersheds that we are proposing for ORW designation, but it's important to underscore that there is also a great deal of public land upstream of the proposed reach and upstream of the City of Cave Junction, as well. The major watersheds upstream of the proposed reach include the East Fork Illinois (>75% public land), the West Fork Illinois (>64% public land), and Sucker Creek (81% public lands).¹

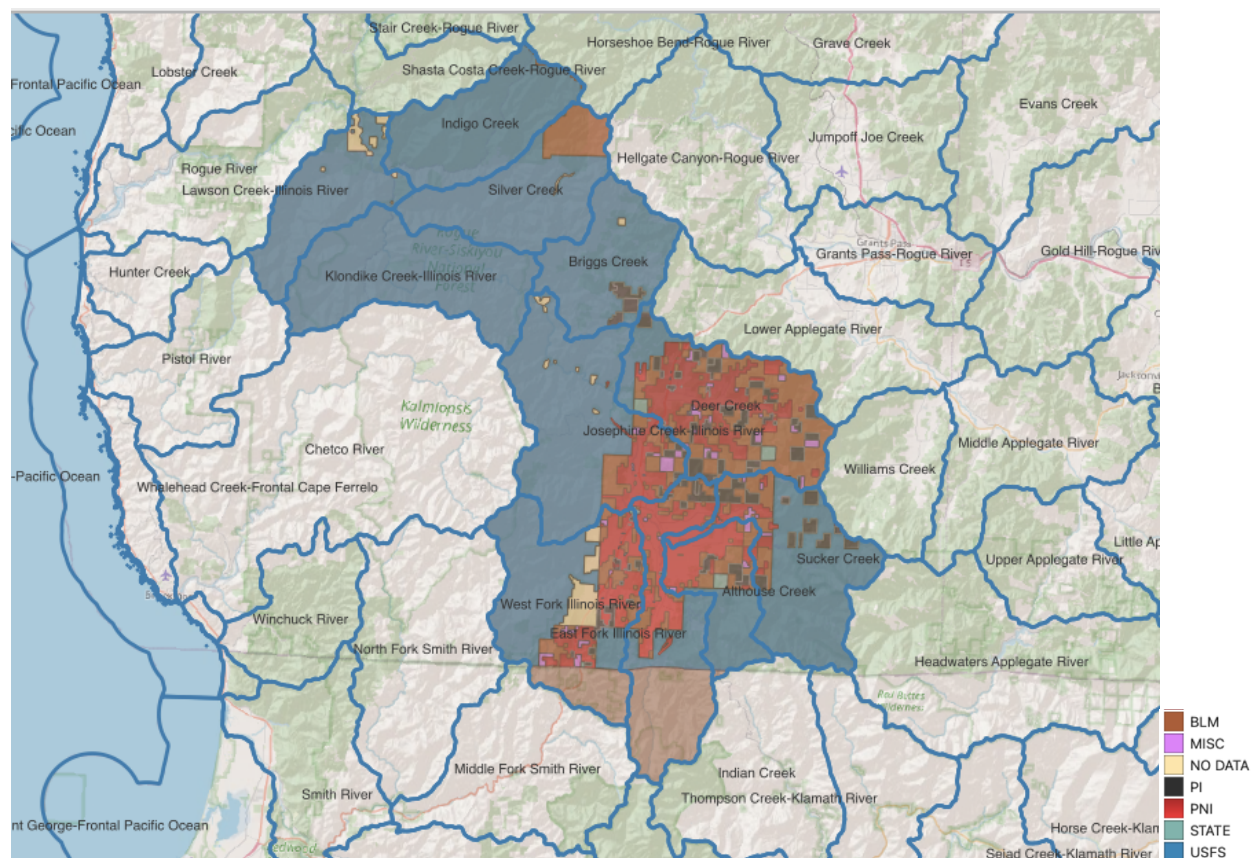
¹ USFS, East Fork Illinois River Watershed Analysis, 2000, p. T-81:

https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5316120.pdf

USFS, West Fork Illinois Watershed Analysis, 2003, p. 5:

https://nrimp.dfw.state.or.us/DataClearinghouse/default.aspx?pn=ViewFile&att=OWEB%5COWEB_907_2_West%20Fork%20Illinois%20River%20WS%20Assessment_v1.pdf; DEQ, Siskiyou National Forest, Water Quality

Most public lands watersheds are managed with recognition of high-water quality and fish habitat values as well as the aim of restoration of past damage from resource extraction. For example, Sucker Creek, which has a history of damage from mining, has two TMDLs with restoration projects completed and goals in progress to increase riparian-shading through reforestation and to reduce sedimentation—both with the aim of improving water quality.² Using open-source GIS analysis, we estimate that 24,658 acres, roughly 4% of the Illinois River watershed in Oregon, is private industrial (PI) forest land, most of which is located upstream of the nominated ORW reach.



In 2022, the Oregon Legislature enacted the Private Forest Accord, which included significant amendments to the Oregon Forest Practices Act aimed at safeguarding water quality from the impacts of timber harvesting on private forest lands. In Western Oregon, these new regulations mandate 100-110-foot wide, no-cut riparian buffers along fish-bearing streams and 50-75-foot buffers along many non-fish perennial streams. Other key regulatory changes focus on significantly reducing the impacts of forest roads on streams by minimizing their hydrological connectivity, thereby improving water quality, resolving road issues, and ensuring fish passage. The Accord will help ensure that private timber practices on both industrial land and small

Management Plan, Illinois River Sub Basin, Sucker Creek, 1999:

<https://www.oregon.gov/deq/FilterDocs/rogue1Utmdl.pdf>

² Ibid, 1999.

forestland parcels are consistent with the attainment and maintenance of the water quality standards of downstream waters.

Future construction in Cave Junction and surrounding vicinity

According to the open GIS, private non-industrial lands in the Illinois watershed are estimated to be ~69,912 acres. Private lands in the Illinois Valley, within the city limits of Cave Junction (population ~2,000), are subject to the Cave Junction Municipal Code. Private lands outside the city are subject to the Josephine County zoning code.

If local city land use laws and DEQ stormwater runoff requirement are properly followed, future construction and development within the City of Cave Junction should not degrade the quality of the downstream Wild and Scenic reach of the Illinois River.

For the purpose of protecting water quality and other values in the Illinois River, which is an amenity for local residents and visitors, the City of Cave Junction has adopted a Riparian Area Protection ordinance in its municipal code (Chapter 17.50 - RIPARIAN AREA PROTECTION³)

17.50.010 - Purpose.

The primary purposes for the creation of the riparian protection overlay along the Illinois River and its tributaries are to: protect and enhance water quality; prevent property damage during floods and storms; limit development activity in designated riparian corridors; protect native plant species; maintain and enhance fish and wildlife habitats; and conserve scenic and recreational values of riparian areas.

The city's ordinance requires a riparian set back of 75 feet the mainstem Illinois and a 50 ft setback for smaller tributaries (Brook Creek, George Creek, and Mill Creek) that feed into the Illinois River. In this overlay area, removal of riparian vegetation is prohibited, and so the buffer zone between waterways and development should, if properly implemented, should be sufficient to avoid degrading water quality of the river.

Another possible impact of future development could be the need to increase the capacity of Cave Junction's Waste Water Treatment Plant. However, water treatment standards could likely accommodate growth without diminishing water quality.

In the surrounding area, private lands outside the city, within the jurisdiction of Josephine County, are also subject to a less-protective riparian code, called the "Riparian Corridor Setback Area."⁴ Development of private lands along the river and its tributaries are subject to a 50-foot setback on Class 1 fish-bearing streams and a 25-foot setback on smaller, Class 2, non-fish-bearing streams. Although these setbacks are less than ideal, in this rural area, the Illinois Valley Watershed Council works with willing landowners on riparian enhancement projects, such as tree planting and fencing, to reduce sedimentation into the river. Moreover,

³ https://library.municode.com/or/cave_junction/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.50RIARPR

⁴ 19.72.040 B Riparian Corridor Setback Area: <https://www.codepublishing.com/OR/JosephineCounty/-/html/JosephineCounty19/JosephineCounty1972.html>

much of the land in the Illinois Valley is zoned for agriculture or Rural Residential 5 and so there are limits to future development and construction outside the city. DEQ would require that septic tanks be located far from the river to avoid contamination.

Surface Mining

We mentioned in our nomination that there has been renewed interest expressed in developing surface mines in the watershed of the Wild and Scenic Illinois River in the vicinity of Eight Dollar Mountain. It's difficult to imagine developing a commercial mining operation, which entails removal, stockpiling, and possible processing, of large amounts of overburden, without damaging the outstanding water quality of the Illinois River. The project proponent has stated that modern mining can be done without damage to water quality, and we think that having ORW designation in place could help to assure that no degradation will occur. The Illinois River basin has a long history of mining, with some areas still recovering from damages inflicted more than a century ago. That said, with recent changes in state law to protect fish, instream, suction-dredge mining is now prohibited in fish bearing streams, which should have the benefit of improving water quality into the future.

In conclusion, we want to underscore some points we made in our nomination. As mentioned above, the Illinois River is somewhat unique in that there is a more densely developed area upstream of the proposed ORW. The river upstream of the proposed ORW reach can run temporarily turbid during high precipitation events —with runoff from National Forest, BLM and private lands. When flows rise above 10,000 cfs, turbidity can increase to 80 times background levels. However, as we emphasized in our nomination, tributaries in the proposed designation sections serve to restore high water quality to the Wild and Scenic by pouring in clean, clear water. Protecting the tributary and wetland flows we seek to nominate is crucial to ensuring that the outstanding water quality of the Wild and Scenic Illinois River will be safeguarded into the future.

DEQ has a responsibility under the Clean Water Act to protect the water quality of outstanding waters. We think the waters of the National Wild and Scenic reach of the Illinois River are truly outstanding and deserve the highest level of attention and stewardship.

Finally, you requested copies of nomination support letters. Some are included here from Kalmiopsis Guides Association and Northwest Rafting Company, but there are more to come, including from The Nature Conservancy and the Southern Oregon Land Conservancy, as well as the groups we listed as supporting the nomination initially. Please don't hesitate to be in touch if you have any further questions or concerns, and we will do our best to address them.

Sincerely,

/s/ Ann Vileisis

/s/ Barbara Ullian

/s/ Michael Dotson



April 26, 2024

To: Oregon Environmental Quality Commission members

From: Kalmiopsis Guides Association

Re: Support for Outstanding Resource Water designation for the Wild and Scenic Illinois River

I am writing on behalf of the Kalmiopsis Guides Association to express our support for designating the Wild and Scenic reach of the Illinois River as an Oregon Outstanding Resource Water. As an organization that represents guides who work in the public lands, wilderness, rivers, and backcountry of Southwestern Oregon, our members have a strong interest, knowledge, and experience with the Wild and Scenic Illinois River. For that reason, we know it merits designation as an Outstanding Resource Water.

Because of its outstanding water clarity, rugged canyon scenery, recreational values, and unique botany, the Illinois was designated as a National Wild and Scenic River in 1984. However, the Wild and Scenic Rivers act doesn't really have any teeth to protect the river's outstanding water quality. We think it's crucially important to protect the water quality of the river into the future, especially because there have been mining proposals put forth in the past and that could be again advanced in the future that could seriously threaten the river and its water quality, as well as its fisheries.

Given our members role in working with the public, we know firsthand how important outdoor recreation is for people's health and well-being. The Illinois River with its amazing water quality makes an impression on people. For many it is a life changing experience to see such clear water and natural beauty.

Finally, we know that having places as special as the Illinois are important for Oregon's recreation economy, which our jobs depend on.

For all these reasons, Kalmiopsis Guides Association urges Oregon to moving forward in designating the Wild and Scenic Illinois River as an Outstanding Resource Water.

Sincerely,

Zachary Collier
President
Kalmiopsis Guides Association

April 26, 2024

Support for Outstanding Resource Water designation for the Wild and Scenic Illinois River

I am writing to express strong support for designating the Wild and Scenic reach of the Illinois River as an Oregon Outstanding Resource Water.

As the owner of a rafting business and a person who has rafted down the Illinois River dozens of times--as well as hundreds of other rivers in our region and around the world, I can attest that the Illinois River's water quality is truly outstanding and exemplifies the qualities that Oregon should be protecting with its Outstanding Resource Water program.

Fed by remote tributaries and serpentine springs, the water of the Illinois is crystal clear which is a highlight of most visitors to the Illinois River. Very few rivers have the spectacular clarity of the Illinois and so it's definitely a value worth protecting.

The Illinois was designated as a National Wild and Scenic River and flows through the northern portion of the Kalmiopsis Wilderness. With its rugged and remote canyon scenery, the river is a remarkable place for recreation. The Illinois has some of the finest whitewater with people coming from all over the country to raft and kayak. In summer, people come to camp and swim in its clear waters. The river also provides important habitat for Chinook, coho, and steelhead, contributing to a popular sport fisher in the lower Rogue River as well.

Outdoor recreation is a key driver in Oregon's economy, with visitors in this sector spending upwards of \$15.6 million dollars, according to a 2019 Travel Oregon Outdoor Recreation Economic Impact Study. Protecting the qualities of unparalleled wild rivers like the Illinois for recreation -- is important for many local businesses that offer guiding, rafting, shuttling, fishing and other support to visitors not only on this river, but on the whole set of southwestern Oregon rivers that are part of the Wild Rivers Coast. Outdoor recreation provides for millions of dollars of expenditures and thousands of part- and full-time jobs in Curry and Josephine counties, where the Illinois River flows.

For all these reasons, I strongly support Oregon moving forward to designate the Wild and Scenic Illinois River as an Outstanding Resource Water.

Sincerely,



Zachary Collier
Owner/Outfitter
Northwest Rafting Company