



DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, NORTHWESTERN DIVISION  
PO BOX 2870  
PORTLAND OR 97208-2870

02 JUN 2016

CENWD-DE

MEMORANDUM FOR RECORD

SUBJECT: Navigability Determination on the Salmon River, Idaho

1. On 27 May 2016 I reviewed the Walla Walla District Commander's "Report of Findings of Navigability for the Salmon River, in Nez Perce, Lewis, Lemhi and Idaho Counties, Idaho regarding the Salmon River in Idaho." I concur with that report and its conclusions.
2. This Department, in the administration of the laws enacted by Congress for the protection and preservation of the navigable waters of the United States, hereby determines that the Salmon River is a navigable water of the United States under the Rivers and Harbors Act of 1899 from River Mile 0, at the confluence with the Snake River in Idaho, to River Mile 259 near Salmon, Idaho. Actions which modify or otherwise affect those waters are subject to the jurisdiction of this Department, whether such actions occur within or outside the navigable areas.

A handwritten signature in black ink, appearing to read "Scott A. Spellmon".

SCOTT A. SPELLMON  
BG, USA  
Commanding



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
201 NORTH THIRD STREET  
WALLA WALLA, WA 99362-1876

CENWW-RD

24 February 2015


MEMORANDUM FOR Commander, Northwestern Division

SUBJECT: Report of Findings, Salmon River, Idaho

1. Enclosed for your review and approval is the Walla Walla District's Report of Findings of Navigability for the Salmon River, in Nez Perce, Lewis, Lemhi and Idaho Counties, Idaho. This report contains an assessment of information describing the river system and its consistency with the definition of navigable waters found at 33 CFR 329.14 (Enclosure 1). Also included is an opinion by the District's Office of Counsel, as directed under 33 CFR 329.14(b) (Enclosure 2).
2. The Report of Findings concludes the facts support a finding of navigability for the Salmon River, from its confluence with the Snake River upstream to Salmon, Idaho.
3. This report was done at the request of NWD to assist in a determination of navigability pursuant to an inquiry by Advocates for the West, on behalf of the Idaho Conservation League.
4. If you have any questions, please contact Kelly Urbanek, Chief, Regulatory Division, at (208) 376-1832 or [Kelly.J.Urbanek@usace.army.mil](mailto:Kelly.J.Urbanek@usace.army.mil).


Encls

CENWD-DE  
Commander, Northwestern Division  
For Commander, Walla Walla District



TIMOTHY R. VAIL  
LTC, EN  
Commanding

Approved X <sup>SAS</sup> /Disapproved \_\_\_\_\_  
02 JUN 2016



SCOTT A. SPELLMON  
BG, USA  
Commanding

20 February 2015

**Salmon River  
Report of Findings  
33 CFR Section 329.14**

**(1) Name of waterbody:** Salmon River.

**(2) Tributary to:** Snake River, which is tributary to the Columbia River.

**(3) Physical characteristics:**

**(i) Type:** River.

**(ii) Length:** The investigated reach of the river is limited to the main stem Salmon River, from its confluence with the Snake River upstream to Salmon City, Idaho. This reach is approximately 259 miles. The entirety of the Salmon River runs for approximately 425 miles from its headwaters to the Snake River. None of the tributaries to the main stem Salmon are being examined as traditional navigable waters.

**(iii) Approximate discharge volumes: Maximum, Minimum, Mean:**

Continuous flow records have been kept at USGS Gage 13317000, Salmon River at White Bird, Idaho, since July 1919. The maximum discharge reported at USGS Gage 13317000, Salmon River at White Bird Idaho, is 130,000 ft<sup>3</sup>/s on 17 June 1974. The minimum flow recorded at that gage is 1,000 ft<sup>3</sup>/s on 4 January 1995. The annual mean flow at USGS Gage 13317000 is 11,100 cfs.

**(iv) Fall per mile:**

From Mouth (RM 0.0) to Slate Creek (RM 66.1)	9.50 ft/mile
From Slate Creek (RM 66.1) to South Fork (RM 133.9)	8.98 ft/mile
From South Fork (RM 133.9) to Middle Fork (RM 198.5)	13.73 ft/mile
From Middle Fork (RM 198.5) to North Fork (RM 237.1)	14.78 ft/mile
From North Fork (RM 237.1) to Pahsimeroi River (RM 304.0)	15.84 ft/mile
From Pahsimeroi River (RM 304.0) to Yankee Fork (RM 367.1)	20.06 ft/mile
From Yankee Fork (RM 367.1) to Fourth of July Creek (RM 391.6)	34.85 ft/mile

(SOURCE: Peebles, John J. (1970). A Methodology Study to Develop Evaluation Criteria for Wild and Scenic Rivers, Report of Navigation Subproject. Water Resources Research Institute, University of Idaho, Moscow, Idaho. See Attachment A.)

20 February 2015

(v) **Extent of tidal influence:** Not applicable.

(vi) **Range between ordinary high and ordinary low water:** No specific elevation data has been developed to determine either situation.

(vii) **Description of improvements to navigation not listed in paragraph (c) (5) of this section:** No navigation improvements are present on the main stem Salmon River or any of its tributaries.

**(4) Nature and location of significant obstructions to navigation in portions of the waterbody used or potentially capable of use in interstate commerce:** There are numerous rapids on the river and as with all rivers, the difficulty of navigating rapids depends on the water flow. Springtime often brings high water and low water periods may occur later in the summer, both of which can make rapids more difficult to navigate. There are also highway bridges and private bridges that cross over the river that may not be passable at high flows for rafts and jet boats. Much of the Salmon River is designated Wild or Recreational and runs through the Frank Church – River of No Return Wilderness Area. Bridges are relatively rare over the river. Regardless, rapids and bridges would not have presented an absolute obstruction to navigation of the Salmon River.

**(5) Authorized projects:**

(i) **Nature, condition and location of any improvements made under projects authorized by Congress:** None.

(ii) **Description of projects authorized but not constructed:** None.

(iii) **List of known survey documents or reports describing the waterbody:** Many reports and other documents were found in the process of investigating the Salmon River for navigability. The list below is a good representation of survey documents encountered. Further research might yield more documents, but these provide a thorough background in the various considerations of the Salmon River over the years.

Federal Power Commission and USACE Walla Walla District (1972). [A Report on Power, Navigation and Flood Control.](#)



20 February 2015

Peebles, John J. (1970). A Methodology Study to Develop Evaluation Criteria for Wild and Scenic Rivers, Report of Navigation Subproject. Water Resources Research Institute, University of Idaho, Moscow, Idaho.

Peebles, John J. (1970). A Methodology Study to Develop Evaluation Criteria for Wild and Scenic Rivers, Report of Flood Control Subproject. Water Resources Research Institute, University of Idaho, Moscow, Idaho.

U.S. Army Corps of Engineers, Portland District (1942). Interim Report No. 2; Snake, Salmon and Clearwater Rivers, Oregon, Washington and Idaho, with a View to Developing a Comprehensive Plan for Multipurpose Uses of the Waters of the Lower Snake River. Portland, Oregon.

U.S. Department of Agriculture, Forest Service (1973). A Summary Proposal for the Salmon River – Idaho, The National Wild and Scenic Rivers System.

Warnick, C. C. (1971). A Methodology Study to Develop Evaluation Criteria for Wild and Scenic Rivers, Report of Irrigation Subproject. Water Resources Research Institute, University of Idaho, Moscow, Idaho.

**(6) Past or present interstate commerce:**

**(i) General types, extent, and period in time:** According to State of Idaho Historical Report 774 (ISHS 774; See Attachment B), commercial navigation commenced on the Salmon River in the 1880's to provide stamp mills and other heavy equipment and lumber in support of the gold trade, an important commodity at the time, and resulted in a mining community dependent upon river transportation for freight service. There are accounts of a Captain Harry Guleke regularly running freight and supplies down the river from Salmon, Idaho to mining camps along the Salmon River, and even down to Lewiston, Idaho on the Snake River. He was active from the turn of the 20<sup>th</sup> century until at least the early 1930s, making several trips each year. According to ISHS 774, in his initial sixteen years of freighting, Guleke hauled nearly three million pounds of cargo in more than two hundred trips.

The advent of outboard motors made trips upstream possible as well. Around 1945, motorized trips were beginning up the Salmon River when a motor boat was used to go upstream to pick up surveyors. In 1947, an Oregon boatman took a motor boat from Riggins to Salmon. Even more recently, the introduction of jet

20 February 2015

boats has made travel up the Salmon River, even over the rapids, much more accessible.

Annually, there are numerous commercial recreational river trips down the Salmon River and the Middle Fork of the Salmon River. A simple internet search yields references to multiple white water rafting businesses that market worldwide to travelers and recreationalists for contracted boating and rafting services on the main stem of the Salmon River in areas along this 259 mile reach. Ranchers and other private land owners carry supplies upstream to their properties along the Salmon River. More robust commercial traffic has not developed in recent times due to the Wild and Scenic designation of the Middle Fork Salmon in 1968 and on the main stem Salmon in 1980.

**(ii) Documentation, if necessary:** Much of the history of navigation on the Salmon River is contained in the Idaho State Historical Society Report 774 (Attachment B) on Salmon River Navigation. There are also historic accounts of these transport trips down the Salmon River that were published in *The Outing Magazine* in 1912 (See Attachment C).

**(iii) Additional Information:** The findings in this document appear well supported by historic and current records. The reporting in the Idaho State Historical Society document provides a detailed picture of early navigation along the Salmon River. The river was examined in survey documents for navigation, hydropower potential, and flood control projects that could have permitted further commercial development along the river if not for the subsequent Wild and Scenic designations and if the area around the river were not declared a Wilderness Area. A petition dated January 8, 2014 submitted by the Idaho Conservation League included the information noted in (ii) above along with additional references regarding the historical use of the river for commercial navigation (see Attachment F). Additional details may be found if further research were conducted in historic documents and on the internet. However, for this determination, additional research is unlikely to change our understanding of the historic or current uses of the river.

**(7) Potential use for interstate commerce, if applicable:**

**(i) If in natural condition:** Continued development of commercial water-oriented recreational activities and transport of small amounts of supplies and products up and downstream. Recreational boating services are used by multiple interstate customers. Estimates obtained from one licensed outfitter



20 February 2015

(OARS, <http://www.oars.com/>) showed that from 2012-2014 an average of 165 clients per year took trips on the Salmon River; 97% of which traveled from outside of Idaho. Further analysis of customer reviews for three other outfitters (Mountain River in Riggins, ID; Idaho River Adventures in Lewiston, ID; and Hells Canyon Jet Boat Trips & Lodging in White Bird, ID) posted online on Trip Advisor ([www.tripadvisor.com](http://www.tripadvisor.com)) shows that of 79 total reviewers that participated in Idaho whitewater rafting trips (2012-2014), indicating location of origin, approximately 77% were from outside of Idaho, including 0.5% from outside of the United States.

All activities will be in line with federal designations on the river. The Middle Fork Salmon River is a federally designated Wild and Scenic River and potential improvements would likely also be in line with this designation. The main stem Salmon is designed as Wild and Recreational for 125 miles between Salmon City and Long Tom Bar. Much of the Salmon River is within the Frank Church – River of No Return Wilderness Area as well.

**(ii) If improved:** Any improvements would likely be focused on creating additional recreational activities consistent with uses associated with a federal Wilderness designation.

**(8) Nature of jurisdiction known to have been exercised by Federal agencies, if any:** The main stem of the Salmon River from the mouth of the North Fork downstream to Long Tom Bar is designated Wild over 79 miles and Recreational over an additional 46 miles, for a total of 125 miles designated in 1980 (designated by Public Law 39-612 on July 23, 1980). Additionally, the entirety of the Middle Fork Salmon, from its headwaters to its confluence with the main stem, was one of the eight original rivers designated in 1968 as Wild and Scenic (designated by Public Law 90-542 on October 2, 1968). Approximately 104 miles are designated.

In 1974, the U.S. Coast Guard determined that the main stem Salmon River was a navigable water of the United States from the confluence with the Snake River up to Salmon City, Idaho (See Attachment D). The Salmon River and its tributaries are considered by the Corps and EPA as subject to Sections 401, 402, and 404 of the Clean Water Act under the definition of "waters of the US", 33 CFR 328.3(a).

**(9) State or Federal court decisions relating to navigability of the waterbody, if any:** The State of Idaho has deemed the Salmon River to be navigable for purposes of state title to the riverbed. A 1980 Attorney General Opinion Memo (see Attachment E) includes the state's explanation and recommendation on navigability. Two state court

20 February 2015

cases are referenced regarding state court decisions of navigability on the main stem of the Salmon River. These are *Callahan v. Price* 26 Id. 745 (1915) and *Halmage v. The Village of Riggins* 78 Id. 328 (1956).

**(10) Remarks:** The Walla Walla District records show that a navigability study was completed in 1933. We could not find the study report, but the determination at that time was that the main stem Salmon River was non-navigable for the purposes of the Rivers and Harbors Act. No rationale for this decision was found during research.

**(11) Finding of navigability (with date) and recommendation for determination:**

On the main stem Salmon, there is evidence of commercial activity having occurred and currently occurring on the main stem of the Salmon River from Salmon City, Idaho down to Lewiston, Idaho on the Snake River and beyond. The City of Salmon appears to be the historic upper limit of commercial navigation. Although it is not clear from any particular document examined during this investigation, it stands to reason that if Captain Guleke and others could travel from Salmon, Idaho on the Salmon River downstream to Lewiston, Idaho on the Snake River, supplies and products could move further downstream on the Lower Snake River to the Columbia River and travel all the way to the Pacific Ocean. This includes access to the states of Oregon and Washington along the Snake and Columbia Rivers. Further, prior to the dams being built on the Columbia River and Snake River, rafts and other small motorized craft would be capable of traveling from the Pacific Ocean through Oregon and Washington all the way back up the Salmon River to Salmon, Idaho.

The U.S. Coast Guard determined that the main stem Salmon River was a navigable waters of the United States in 1974 based on a similar review of historic documents and a review of relevant legal cases (Attachment D). The State of Idaho also determined in 1980 that the Salmon River was navigable at the time of Idaho's admission into the Union, and as such, the State owns the rights to the riverbed (See Attachment E).

With the restrictions on the main stem Salmon River and the Middle Fork Salmon due to their federal Designations, the primary commercial traffic at present is generally limited to recreational rafting and boating.

In examining whether the Salmon River is a "traditional navigable waters" of the United States, one applies the standard set forth in 33 C.F.R. Part 329. A waterway is "navigable" if the water body is (a) subject to the ebb and flow of the tide, and/or (b) the water body is presently used, or has been used in the past, or may be susceptible for use (with or without improvements) to transport interstate or foreign commerce. It is clear that the Salmon River was used to transport commercial traffic historically, and



Final Report of Findings  
Enclosure 1

20 February 2015

that it is susceptible to use for interstate or foreign commerce with or without improvements for navigation. Therefore, our recommendation is that the main stem Salmon River from the mouth (RM 0) to Salmon, Idaho (RM 259) considered in this report and as further described in the attachments be considered navigable pursuant to the Corps' Regulations at 33 C.F.R. 329.14.