



Federal Agencies Submit Draft “Proposed Action” to Judge Redden

Background - Late yesterday, the federal action agencies (Bonneville Power Administration, Army Corps of Engineers, Bureau of Reclamation) submitted a draft proposed action (PA) to Judge Redden in the U.S. District Court of Oregon in the litigation over federal hydrosystem operations. The draft proposes how the federal hydrosystem will be operated over the next ten years 2007-2017, and includes measures in the habitat, hatchery and harvest arenas for listed salmon and steelhead. A collaborative “Sovereigns” process involving the federal agencies, northwest states and Indian tribes has been proceeding for over a year; information from that process is incorporated in the Proposed Action.

Also, discussions are continuing between the federal agencies and the Sovereigns over additional measures that might be included in a final PA and in a Memorandum of Agreement with parties to implement the PA. If achieved, an MOA would be submitted to the court at a future date. This draft PA represents the effort to-date and is the agencies’ initial attempt to be responsive to the parties in the collaborative process and the Judge. As negotiations continue, more will be added. The challenge will be to try to contain that, and to assure that what is added benefits listed fish.

Comments on the submittal are due to the court and other parties June 11, 2007 with an in-person status conference before Judge Redden on June 20, 2007. Northwest RiverPartners’ legal and technical resources will be developing and submitting comments in the proceeding. We also will continue to coordinate with the “regional coalition” of Sovereigns we have been working with in the process including Washington, Montana and upriver tribes.

Ultimately, a final PA and Biological Assessment will be submitted to NOAA Fisheries which then takes the information, conducts its own independent analysis, and submits the “Biological Opinion” to the court. Three previous BiOps have been found lacking; the hope is that this one will have sufficient substance and regional support to be deemed sufficient by the court, although it will be challenged in any event. The timeframe for a new BiOp is fluid; nothing is expected before year’s end.

Overview of the Proposed Action

The PA includes significant new BPA funding obligations for habitat improvements for listed stocks, added hydro operational changes, performance standards and capital improvements, increased predation controls (birds and sea lions), and hatchery reform language. There is little to nothing on harvest; the PA notes that the federal agencies have limited jurisdiction in this area which is the subject of the ongoing US vs. OR consultation process. Also, hatchery impacts are identified as major factors affecting listed stocks; however, reforms to be undertaken are less clear.

It also identifies research and monitoring activities, and contingency plans should measures not perform as expected. It does take a unique and more solid scientific analysis approach where listed stocks are evaluated on an ESU x ESU (Evolutionary Significant Unit) basis, with the “limiting factors” (hydro, habitat, hatcheries, harvest) identified that affect each stock. However, the PA does not link this approach well to the proposed measures.

NWRP Reaction to PA

- The unprecedented collaborative “Sovereigns” process ordered by the Judge is bearing fruit, the draft PA is a significant improvement over past efforts/ BiOps;
- There are substantial and increased funding commitments, they are clearer and more certain to occur, especially in the habitat area;
- The scientific analysis which identifies limiting factors for each listed stock and what is affecting them throughout their lifecycle is a solid approach;
- Shortcomings include continued emphasis on the hydrosystem, for example, the draft PA continues the summer spill program into August when costs are high and fish are few;
- The draft PA also falls short in the hatchery and, especially, harvest arenas. These two areas need much more substance to put the listed fish on the path to recovery.

Hydro High-Level Summary

- The PA includes continued implementation and evaluation of 2006 court-ordered spill, and as agreed to by BPA with the downstream treaty tribes and the Colville tribe on 2007 federal hydrosystem operations;
- A provision that summer spill timing be driven by fish presence (1,000 fish over 2 consecutive days) to warrant continued spill;
- Performance standards for each mainstem facility with 95% survival on average for spring migrating fish and 93% average survival for summer fish;
- Added dam modifications for each of the mainstem projects based on performance standards and whether they are being reached;
- Added powerhouse and spillway improvements to aid fish survival;
- Continued transportation of fish, but based on new protocols that are linked to recent fish survival information e.g. the possibility of more transport in summer given poor in-river conditions; and,
- Incorporates NW Power and Conservation Council (and Montana) amendments relating to water releases at Libby and Hungry Horse for resident fish species.

Habitat High-Level Summary

- For 2007-2009, increased BPA habitat funding (above current Power Council fish and wildlife program) for all ESUs of \$11.5 million;
- For 2010-2017, BPA funding increases to \$40-\$45 million average annually, including funding for estuary projects;
- The 2007-2009 funding includes dollars earmarked to state of Washington's Basin Water Transactions Program for water/riparian acquisitions; and,
- Funding to be provided based on ESUs in most need with significant increases in projects in the estuary.

Hatchery High Level Summary

- Adopts programmatic "funding criteria" and apply "best management practices" to FCRPS hatcheries; request NOAA conduct site-specific ESA consultations with hatchery operators;
- Hatchery reforms to occur after basin-wide reviews are completed by the Columbia River Hatchery Scientific Review Group and US Fish and Wildlife;
- Expedites operational changes on aspects of the Leavenworth hatchery, identified by NOAA as an immediate concern;
- Continues use of safety-net programs to assist in recovery of listed stocks and expands the sockeye safety-net program; and,
- Includes funding for Northeast Oregon Hatchery contingent on NOAA's approval.

Harvest

- Add PIT tag detection in mainstem Columbia fisheries; and,
- Implement Colville tribe's selective fisheries project to help ascertain harvest impacts on natural spawners.