



Enough Already, Let's Get 'er Done!

When is enough enough? That seems to be the \$64,000 dollar – or in this case, the multibillion dollar question – when it comes to the litigation over the Biological Opinion (BiOp) for the Federal Columbia River Power System.

The federal action agencies filed a Supplemental BiOp earlier this month that included yet another science review and incorporated the Administration's Adaptive Management Implementation Plan (AMIP). This was done at the request of Judge Redden. The federal agencies closed their submission to the court by saying, "the Federal Defendants have undertaken substantial work to meet the Court's direction, and now seek an expeditious resolution of this case."

They are right. The agencies, the region, and the salmon all deserve a positive decision from Judge Redden as quickly as possible.

The litigation process, however, looks like it will take another six months. Coupled with the previous five years of litigating the 2005 BiOp, this process has taken nearly six years. But now we have what the agencies call "a single, comprehensive final agency action."

From RiverPartners' point of view, it is more than time to focus our energies on plan implementation, not continued litigation.

The science underlying the BiOp and now the AMIP has survived – not once, but twice – the scrutiny and scrubbing of NOAA Fisheries at all levels of the agency, the Northwest Fisheries Science Center, and a panel of independent scientists. The BiOp delivered to the court in 2008 was improved with the latest supplemental filing. But overall, the comprehensive stock-by-stock approach to evaluating the runs, the measures tailored to address obstacles affecting fish in their life cycle, and the adaptive management framework are the same.



In fact, the latest review shows the adaptive management approach works. NOAA took into account recent climate change studies and other new pertinent scientific information. NOAA sought independent science review of its 40-page list of references and solicited the scientists' views. As a result, the AMIP was modified slightly to reflect the new information – adaptive management at work.

The environmental plaintiffs and their supporters can't accept that the 2008 BiOp is simply good science. It isn't perfect, but it's the best there is. They are faced with facts that do not support their own personal views on removing the Snake River dams. And the national groups in the litigation are trying to establish new and novel legal precedents they can apply in ESA cases nationwide.

They expected the Obama Administration to throw out the 2008 BiOp last year and start over. But that didn't happen. Now, they shrilly denounce the BiOp as a Bush-era document with a new cover page. That's politics, my friends, not science.

As long as the four federal Snake River dams continue to exist and generate hydropower – the clean renewable source of electricity that underlies this region's small carbon footprint – the plaintiffs will continue to litigate. They will continue to ignore the regional collaboration that has occurred, the federal government's Herculean efforts on science, and the tribes' and states' monumental habitat efforts, including work to address problems in the estuary.

For the dam busters, enough is never enough. But for the Judge, this Supplemental BiOp – with its AMIP and its updates to science and actions to monitor the effects of climate change– should be enough.

In the words of the Obama Administration, "[The 2010 Supplemental BiOp](#) is legally and biologically sound, and provides strong protection for Northwest salmon and steelhead."

For the last five years, the federal agencies have followed the directions from Judge Redden's court. They undertook an unprecedented collaboration with the region's states, tribes, and other stakeholders to develop the 2008 BiOp. They offered the BiOp for the new Administration's review and for independent science review, not once but twice. To assure the AMIP was appended legally, they followed the judge's directive on a limited remand and new consultation.

There will be a new briefing schedule and more months of waiting. But what new arguments can be made? Will enough finally be enough? It should be.



Terry Flores is Executive Director of Northwest River Partners, an alliance of farmers, utilities, ports and businesses that promote the economic and environmental benefits of the Columbia and Snake Rivers and salmon recovery policies based on sound science.

For more information, please visit www.nwriverpartners.org.