



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

August 28, 2002

Ms. Stacy L. Mason
Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

Re: Endangered Species Act Section 7 Informal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for McNary-John Day Transmission Line Project (NOAA Fisheries No. WHB 02-201)

Dear Ms Mason:

This correspondence is in response to your request for consultation under the Endangered Species Act (ESA) of 1973, as amended, 16 U.S.C. 1531, *et seq.* Additionally, this letter serves to meet requirements for consultation under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), P.L. 104-297.

Endangered Species Act

The National Marine Fisheries Service (NOAA Fisheries) has reviewed the above referenced Biological Assessment (BA) dated May 9, 2002, and received by NOAA Fisheries on May 16, 2002. The Bonneville Power Administration (BPA) is requesting concurrence with its finding of "may affect, not likely to adversely affect" on Endangered Species Act listed fishes under the jurisdiction of NOAA Fisheries for the above referenced project, excluding the construction of tower supports in the Columbia River. BPA is seeking to cover work in the Columbia under the June 14, 2002 *Programmatic Biological Opinion on Standard Local Operating Procedures (SLOPES) for Certain Activities Requiring Department of Army Permits in Oregon and the North Shore of the Columbia River*. This determination pertains to the Upper Columbia, Middle Columbia, and Snake River steelhead (*Oncorhynchus mykiss*), Snake River Fall, Snake River Spring/Summer and Upper Columbia River chinook (*O. tshawytscha*) and Snake River Sockeye Evolutionarily Significant Units (ESUs). NOAA Fisheries has considered the determination of effects under section 7 (a)(2) of the ESA, and its implementing regulations (50 C.F.R. Part 402).

The BPA is proposing to construct a new 79-mile long, 500 kilovolt transmission line from near McNary Dam to near John Day Dam. The power line would parallel an existing transmission line along the north shore of the Columbia River. Elements of the proposal include erecting 374 new towers, building 3 miles of new primary access road, building 12.8 miles of new spur roads, improving 40 miles of existing roads, clearing 50 acres of trees, and acquiring 14 miles of right of way easements along the proposed transmission line route. It may be necessary to blast bedrock to install some tower footings. The project would not entail removing riparian vegetation or constructing new crossings of fish bearing streams.



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The implementation of these activities has the potential to impact listed fishes. For all of the affected ESU's except the Middle Columbia River (MCR) steelhead, impacts would be limited to migrating fish. MCR steelhead spawn and rear in four small streams within the action area. The only anticipated mechanism of injury to fish migrating through the action area would be exposure to elevated levels of turbidity resulting from chronic erosion from or failure of native surfaced roads. The BA describes erosion control and other conservation measures (e.g., avoiding unstable settings when locating new roads) that would make it highly unlikely for the proposed action to effect turbidity levels in the Columbia River sufficient to adversely affect migrating fishes. MCR steelhead residing (adults, juveniles, and embryos) in small streams within the action area could be adversely affected by increased sediment delivery, accidental fuel spills, or by shock waves resulting from blasting operations. However, the proposed action includes erosion control and spill containment measures that are likely sufficient to avoid water quality related adverse affects to MCR steelhead. Further, blasting operations are not anticipated to occur near or within fish bearing streams, and those within 200 feet of fish bearing streams would be timed to avoid impacts to eggs or embryos. If BPA later determines it necessary to blast near or within fish bearing streams, they would consult further with NOAA Fisheries. Accordingly, when the preceding factors are taken into consideration and executed properly, NOAA Fisheries concurs with your determination of "may affect, not likely to adversely affect" for each of the ESUs listed above. .

This concludes informal consultation on these actions in accordance with 50 C.F.R. 402.14(b)(1). The BPA must re-analyze this ESA consultation if: (1) New information reveals effects of the action that may affect listed species in a way not previously considered; (2) The action is modified in a manner that causes an effect to the listed species that was not previously considered; or (3) A new species is listed, or critical habitat designated, that may be affected by the identified actions.

Magnuson-Stevens Fishery Conservation and Management Act

Federal agencies are required, under §305(b)(2) of the MSA and its implementing regulations (50 C.F.R. 600 Subpart K), to consult with NOAA Fisheries regarding actions that are authorized, funded, or undertaken by that agency that may adversely affect Essential Fish Habitat (EFH). The MSA (§3) defines EFH as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." If an action would adversely affect EFH, NMFS is required to provide the Federal action agency with EFH conservation recommendations (MSA §305(b)(4)(A)). This consultation is based, in part, on information provided by the Federal action agency and descriptions of EFH for Pacific salmon contained in Appendix A to Amendment 14 to the Pacific Coast Salmon Plan (August 1999) developed by Pacific Fishery Management Council and approved by the Secretary of Commerce (September 27, 2000).

The proposed action and action area are described in the BA, as well as this concurrence letter. The project area includes habitat which has been designated as EFH for various life stages of chinook and coho (*O. kisutch*) salmon.

Because the habitat requirements (*i.e.*, EFH) for the MSA-managed species in the project area are similar to that of the ESA-listed species, and because the conservation measures that the BPA included as part of the proposed action to address ESA concerns are also adequate to avoid, minimize, or otherwise offset potential adverse impacts to designated EFH, conservation recommendations pursuant to MSA (§305(b)(4)(A)) are not necessary. Since NOAA Fisheries is not providing conservation recommendations at this time, no 30-day response from the BPA is required (MSA §305(b)(4)(B)).

This concludes EFH consultation under the MSA. If the proposed action is modified in a manner that may adversely affect EFH, or if new information becomes available that affects the basis for NOAA Fisheries EFH conservation recommendations, the BPA will need to reinitiate EFH consultation with NOAA Fisheries in accordance with its implementing regulations for EFH at 50 C.F.R. 600.920(k).

Thank you for your efforts to protect steelhead, salmon, and their associated habitat. If you have any questions regarding either the ESA or EFH consultation, please contact Dale Bambrick of the Washington State Habitat Branch Ellensburg Field Office at (509) 962-8911.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Robert Lohn". The signature is fluid and cursive, with a large initial "D" and "L".

D. Robert Lohn
Regional Administrator