Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT PROGRAM

December 30, 2014

In reply refer to: FOIA #BPA-2015-00273-F

Friends of the Wild Swan
Attn: Arlene Montgomery
PO Box 103
Bigfork, MT 59911

Ms. Montgomery:

We have received your request for records under the Freedom of Information Act (5 U.S.C. § 552). Thank you for your interest in the Bonneville Power Administration (BPA). Your request was received in this office on December 3, 2014, and has been assigned control number BPA-2015-00273-F. Please use this number in any correspondence with the agency about your request.

You requested:
"1) Any and all communications, meeting minutes and other correspondence between the Bonneville Power Administration and U.S. Fish and Wildlife Service regarding dam operations in bull trout critical habitat since November 17, 2010.
2) Any and all communications, meeting minutes and other correspondence between the Bonneville Power Administration and other federal agencies regarding dam operations in bull trout critical habitat since November 17, 2010.
3) Any and all communications, meeting minutes and other correspondence between the Bonneville Power Administration and state agencies regarding dam operations in bull trout critical habitat since November 17, 2010.
4) Any and all communications, meeting minutes and other correspondence between the Bonneville Power Administration and agricultural or energy interests in bull trout critical habitat since November 17, 2010.
5) Any and all documents that are the result of consultation between the U.S. Fish and Wildlife Service and Bonneville Power Administration regarding dam operations in bull trout critical habitat since November 17, 2010."

In a letter dated December 12, 2014, you revised your request to the following:

"All documents regarding dam operations within the Federal Columbia River Power System affecting bull trout critical habitat from November 17, 2010 to present. This should include

documents, correspondence, communications, formal and informal re-consultations between the USFWS and Bonneville Power Administration.

For example, BPA informed us that they are currently engaged in consultation with the U.S. Army Corps of Engineers, Bureau of Reclamation and US Fish and Wildlife Service on the effects of the operation and maintenance of the Federal Columbia River Power System on bull trout critical habitat since February 2011.

BPA also informed us that they consulted with and received a programmatic biological opinion from the US Fish and Wildlife Service for BPA's Habitat Improvement Program in November 2013.

This request excludes any contracts relating to bull trout habitat restoration or dam improvements for fish passage."

We have reviewed your request and determined that it addresses all of the criteria of a proper request under the FOIA and the Department of Energy's FOIA regulations at Title 10, Code of Federal Regulations, Part 1004. Your request for a waiver of fees is granted.

Unusual/exceptional circumstances:
Under FOIA, an agency may extend the normal 20-day deadline by an additional ten business days if "unusual circumstances" exist (5 U.S.C. § 552(a)(6)(B)(i)). Unusual circumstances include the need to search records located in field facilities, requests for a voluminous amount of records, and requests that require consultation with other agencies or agency components including Department of Energy headquarters. If an agency cannot fulfill the request within the 30 working days provided by the extended deadline, agencies must (a) notify the requester and (b) work with the requester to modify or limit the scope of the request or arrange an alternative time frame for processing (5 U.S.C. § 552(a)(6)(B)(ii)).

Due to the involvement of other agencies in your request, consultation with them on any documents that originated with that agency would be required. Because the time frame for completing this broad request would be outside of the permissible 30-day extended deadline, we contacted you to discuss the possibility of modifying or limiting your request to permit faster processing.

In a conference call on Friday, December 19, 2014, you met with Sarah McNary, John Barco, Rose Francis and Kim Winn to discuss narrowing your request. In that conversation John Barco explained that a great deal of dam operations information, including meeting minutes is posted on the U.S. Army Corps of Engineers website. You stated that you would accept the link to that site to satisfy your request for documents related to dam operations in the FCRPS.

Sarah McNary explained that during the FCRPS ESA consultation process with USFWS, on bull trout critical habitat, BPA is not currently engaging in discussions or meetings with power customers, river users or other outside organizations on that consultation. Ms. McNary also disclosed that BPA is in the process of developing a draft that is scheduled to be sent to U.S. Fish

& Wildlife in the summer of 2015; after which further discussions with other agencies would be held.

John Barco stated that the BPA habitat improvement program (HIP III) biological opinion is public. You stated that a link to that information would satisfy your request.

Partial response:
This is a partial response to your request for information dated December 12, 2014.

In regard to your request for information related the FCRPS dam operations, BPA is providing a link to the U.S. Army Corps of Engineers webpage for the Technical Management Team (TMT) documents: **http://www.nwd-wc.usace.army.mil/tmt/**. The Water Management Plan, Fish Operations Plan, etc. are located under Documents on the right hand side of the page.

In regard to BPA's Habitat Improvement Program (HIP), the HIP III Programmatic BiOp can be found at: **http://efw.bpa.gov/environmental_services/endangeredspecies.aspx**. Please note, the HIP III BiOp Handbook is located on the right hand side of the page, along with the accompanying guidance documents. These documents should provide the information you are in search of.

To conclude, BPA is continuing to work on our final response regarding your request for documents on BPA's consultation with the U.S. Army Corps of Engineers, Bureau of Reclamation, and US Fish and Wildlife Service, on the effects of the operation and maintenance of the Federal Columbia River Power System on bull trout critical habitat since February 2011. We estimate that we will be able to complete that part of your request by Friday, January 30, 2015.

I appreciate the opportunity to assist you. Should you have any questions about this letter, please contact Kim Winn, FOIA Public Liaison, at 503-230-5273, or via email at kswinn@bpa.gov.

Sincerely,

C. M. Frost
Freedom of Information Act Officer

Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT/PRIVACY PROGRAM

February 9, 2015

In reply refer to: FOIA #BPA-2015-00273-F

Friends of the Wild Swan
Attn: Arlene Montgomery
P0 Box 103
Bigfork, MT 59911

Ms. Montgomery:

This is a final response to your request for Bonneville Power Administration (BPA) records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Your request was received in our office on December 3, 2014, with an acknowledgement and partial response letter sent to you on December 30, 2014.

You requested:
"1) Any and all communications, meeting minutes and other correspondence between the Bonneville Power Administration and U.S. Fish and Wildlife Service regarding dam operations in bull trout critical habitat since November 17, 2010.
2) Any and all communications, meeting minutes and other correspondence between the Bonneville Power Administration and other federal agencies regarding dam operations in bull trout critical habitat since November 17, 2010.
3) Any and all communications, meeting minutes and other correspondence between the Bonneville Power Administration and state agencies regarding dam operations in bull trout critical habitat since November 17, 2010.
4) Any and all communications, meeting minutes and other correspondence between the Bonneville Power Administration and agricultural or energy interests in bull trout critical habitat since November 17, 2010.
5) Any and all documents that are the result of consultation between the U.S. Fish and Wildlife Service and Bonneville Power Administration regarding dam operations in bull trout critical habitat since November 17, 2010."

In a letter dated December 12, 2014, you revised your request to the following:

"All documents regarding dam operations within the Federal Columbia River Power System affecting bull trout critical habitat from November 17, 2010 to present. This should include documents, correspondence, communications, formal and informal re-consultations between the USFWS and Bonneville Power Administration.

For example, BPA informed us that they are currently engaged in consultation with the U.S. Army

Corps of Engineers, Bureau of Reclamation and US Fish and Wildlife Service on the effects of the operation and maintenance of the Federal Columbia River Power System on bull trout critical habitat since February 2011.

BPA also informed us that they consulted with and received a programmatic biological opinion from the US Fish and Wildlife Service for BPA's Habitat Improvement Program in November 2013.

This request excludes any contracts relating to bull trout habitat restoration or dam improvements for fish passage."

Response:
We conducted a search of the paper and electronic records of John Barco, Sarah McNary and the Policy and Planning Office of BPA's Environment, Fish & Wildlife business line. We have located 12 pages of material responsive to your request. We are releasing these records in full.

There are no fees associated with this request.

Appeal:
You may still seek administrative appeal pursuant to Department of Energy FOIA regulations at 10 C.F.R. § 1004.8 if you feel the search was not adequate. If you choose to appeal, you must do so in writing within 30 days, and include the following information:

(1) The nature of your appeal - denial of records, partial denial of records, adequacy of search, or denial of fee waiver;
(2) Any legal authorities relied upon to support the appeal; and
(3) A copy of this determination letter.

Clearly mark both your letter and envelope with the words "FOIA Appeal," and direct it to the following address:

Director, Office of Hearings and Appeals
Department of Energy
1000 Independence Avenue SW
Washington DC 20585-1615

I appreciate the opportunity to assist you. If you have any questions, please contact Kim Winn, FOIA Public Liaison, at 503-230-5273.

Sincerely,

C. M. Frost
Freedom of Information Act Officer

Enclosure: Responsive documents

Barco III,John W (BPA) - A-7

Subject: FCRPS AA/USFWS - Bull Trout CH Consultation - coordination
Location: Terry Rabot's Office USFWS - conf # 503 230-3344 passcode 6011

Start: Mon 2/14/2011 3:00 PM
End: Mon 2/14/2011 4:00 PM

Recurrence: (none)

Organizer: McNary,Sarah R - A-7

United States Department of the Interior

BUREAU OF RECLAMATION
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise, Idaho 83706-1234

PN-1700
REFER TO:
ADM 1.10

APR - 8 2011

Robyn Thorson
Regional Director, Pacific Region
U.S. Fish and Wildlife Service
911 NE 11th Avenue
Portland, OR 97232-4181

Subject: Federal Columbia River Power System Bull Trout Consultation

Dear Ms. Thorson:

I am writing on behalf of the Bureau of Reclamation, U.S. Army Corps of Engineers, and the Bonneville Power Administration, collectively referred to as the Action Agencies, to advise you that we are preparing a Biological Assessment on the effects of ongoing operations and maintenance of the Federal Columbia River Power System (FCRPS) on the recently designated bull trout critical habitat for purposes of complying with the requirements of Section 7 of the Endangered Species Act (ESA). That assessment will rely on: (1) information presented in the Fish and Wildlife Service's (Service) 2000 Biological Opinion (BiOp) on the effects of FCRPS operations and maintenance on the bull trout, and the Service's 2006 BiOp on the effects of Libby Dam operations (also part of the FCRPS) on the Kootenai River white sturgeon and the bull trout; and (2) updated information on ongoing FCRPS operations and maintenance activities, as appropriate. This assessment will be transmitted to the Service as soon as it is completed.

Ongoing operations and maintenance of the FCRPS conform to the Reasonable and Prudent Alternative (RPA) set forth in the 2010 BiOp issued by National Oceanic Atmospheric Administration (NOAA) Fisheries on this action. The ongoing operations and maintenance of the FCRPS as modified by that RPA incorporate many of the requirements to protect the bull trout that were contained in the Service's 2000 and 2006 BiOps referenced above. Both of those Service BiOps included findings that the proposed FCRPS operations and maintenance were not likely to jeopardize the bull trout. Ongoing operations and maintenance of Libby Dam also conform to the RPA set forth in the Service's 2006 BiOp to avoid jeopardizing the sturgeon and adversely modifying its critical habitat, as well as avoiding jeopardy to the bull trout.

Based on the above information, the Action Agencies have determined that continuing the on-going implementation of the FCRPS in accordance with the NOAA Fisheries 2010 BiOp and the Service's 2000 and 2006 BiOps while completing the analysis and upcoming consultation on the FCRPS effects on the recently listed bull trout critical habitat will not result in an irreversible or

Subject: Federal Columbia River Power System Bull Trout Consultation

irretrievable commitment of resources or have the effect of foreclosing the formulations or implementation of any RPA that may be discussed or developed through our on-going consultation. Therefore, we have determined that the on-going implementation of the FCRPS does not violate Section 7(d) of the ESA.

The Action Agencies look forward to working with you on this ESA consultation and are available to address issues and questions you may have regarding ongoing operations and maintenance of the FCRPS. Please feel free to contact Rock Peters (Corps) at 503-808-3723, Kathryn Puckett (Reclamation) at 208-378-5089, or Sarah McNary (BPA) at 503-230-5135.

Sincerely,

Karl E. Wirkus
Regional Director

cc: Brigadier General John McMahon
US Army Corps of Engineers
Northwestern Division
PO Box 2870
Portland OR 97208-2870

Mr. Steve Wright
Bonneville Power Administration
PO Box 3621
Portland OR 97208-3621

Mr. Rock Peters
US Army Corps of Engineers
Northwestern Division
PO Box 2870
Portland, OR 97208-2870

Ms. Kathryn Puckett
Bureau of Reclamation
1150 N. Curtis Road
Boise, ID 83706

Mr. Bruce Suzumoto
NOAA
1201 NE Lloyd Blvd. Suite 1100
Portland, OR 97232-1274

Ms. Sarah McNary
Bonneville Power Administration
P.O. Box 3621
Portland, OR 97208-3621

McNary,Sarah R - A-7

Subject:	USFWS/FCRPS AAs - Bull Trout Critical Habitat - initial coordination
Location:	USFWS 4th floor Conference room or 1-877-457-9828 passcode 5206428
Start:	Mon 7/25/2011 10:00 AM
End:	Mon 7/25/2011 11:00 AM
Recurrence:	(none)
Meeting Status:	Meeting organizer
Required Attendees:	'Robert Rose'; 'Daniel_Brown@fws.gov'; 'Puckett, Kathryn J'; 'Peters, Rock D NWD'; Lane,Dominic P - PGB-5; Russ_Holder@fws.gov

All - this is the limited session with 2 agenda topics:
1. AAs will share the scope of their SOW for preparation of their BA
2. Agenda development and meeting coordination for larger USFWS/FCRPS AAs work session on proceeding with Bull Trout critical habitat consultation - involves USFWS points of contact for Portland, Washington, Idaho, Oregon and Montana and broader set of participants for AAs

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(08-89)

United States Government **Department of Energy**

Bonneville Power Administration

memorandum

DATE: April 27, 2011

REPLY TO ATTN OF: KE-4

SUBJECT: ESA Section 7(d) Consultation with USFWS on bull trout critical habitat

TO: Gregory K. Delwiche, Senior Vice President, Power Services - P-6
THRU: Stephen R. Oliver, Vice President, Generation Asset Management - PG-5 SRO

In October 2010, the US Fish and Wildlife Service (USFWS) designated critical habitat for the bull trout in five western states. The Bonneville Power Administration (BPA) has determined that the operation of the 14 Federal Columbia River Power System (FCRPS) mainstem dams "may affect" portions of this recently designated habitat, which triggers an obligation to re-initiate consultation. See 50 CFR 402.16(d). In view of this obligation, an additional legal requirement is triggered under section 7(d) of the Endangered Species Act. Specifically, after initiation of consultation under subsection 7(a)(2), 7(d) mandates "the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2) of this section." 16 U.S.C. § 1536(d); *see also* 50 C.F.R. § 402.09.

This requirement continues until the requirements of § 7(a) 2 are satisfied.[1] An agency satisfies the requirements of § 7(a)(2) when it receives a "no jeopardy" opinion from USFWS, chooses a reasonable and prudent alternative recommended by USFWS, or chooses its own alternative not recommended by USFWS that is shown to avoid jeopardy or destruction or adverse modification of designated critical habitat." [2]

In making this 7(d) evaluation, BPA is considering the nature of its proposed action, the degree to which the proposed action conforms to its existing biological opinions on the bull trout species and designated critical habitat for Columbia Basin steelhead and salmon, and the potential effects the proposed action is expected to have on the primary constituent elements of the recently designated bull trout critical habitat.

The action agencies completed a consultation on the effects of FCRPS operations on the listed bull trout species in 2000.[3] Although designated critical habitat was not addressed in that opinion (it had not yet been designated), effects upon bull trout habitat were considered, at least on some levels, in that opinion. The USFWS requested that certain aspects of the 2000 FCRPS

[1] 50 C.F.R. § 402.09.
[2] 51 Fed, Reg. 19926, 19940 (June 3, 1986).
[3] In addition to the 2000 USFWS FCRPS BiOp, BPA and the Corps re-initiated consultation on the effects of Libby Dam operations on Kootenai River white sturgeon critical habitat and species, and on bull trout in 2005. The Libby BiOp was issued in February 2006, and BPA and the Corps, as a result of a settlement agreement, received a "clarified RPA" from the USFWS in 2008. Both the 2000 and 2006 USFWS BiOps on bull trout were issued as non-jeopardy opinions. Although a prior version of critical habitat for bull trout had been issued by 2006, no bull trout critical habitat had been designated within that BiOp's action area.

operations be modified (which the action agencies agreed to do), and USFWS concluded that the FCRPS operations did not *jeopardize* the continued existence of the species. Thus, there is substantial information in the 2000 bull trout BiOp indicating that FCRPS operations do not significantly degrade or destroy the habitat requirements of the species.

The proposed action for the upcoming bull trout designated critical habitat consultation will, as an initial matter, be the Reasonable and Prudent Alternative (RPA) described in the 2008 and 2010 supplemental NOAA FCRPS Biological Opinion on 13 federally listed species of Columbia Basin salmon and steelhead. This is because BPA and the two federal agencies who operate the FCRPS dams (the U.S. Army Corps and Bureau of Reclamation, collectively the 'Action Agencies') have formally committed to carry out the RPA described in that opinion. As such, the proposed action includes habitat, hatchery, and predation management actions to mitigate for the adverse effects of the hydrosystem. In addition, the proposed action includes numerous research, monitoring and evaluation actions to support and inform adaptive management decisions to ensure that the proposed actions perform as they are intended.

Besides protecting the species, the proposed action also includes actions designed to protect the designated critical habitat for twelve listed ESUs of salmon and steelhead critical habitat.[4] The designated critical habitat for the twelve ESUs refers to features of the salmon and steelhead habitat, such as spawning and rearing areas, as well as safe passage through migration corridors that are essential to their survival. The proposed action maintains a broad habitat program that will protect and improve tributary and estuary habitat based on specific biological needs of fish.

Although critical habitat for salmon and bull trout differ, the critical habitat designations overlap substantially. For example, the geographic area of the designations, especially those locations where the effects of the FCRPS operations may affect primary constituent elements, are fundamentally the same for either designation. In addition, the content of the primary constituent elements for bull trout and salmon are substantially similar. As described in the final rule, the PCEs for bull trout relate to: (1) Water quality; (2) migration habitat; (3) food availability; (4) in-stream habitat; (5) water temperature; (6) substrate characteristics; (7) stream flow; (8) water quantity; and (9) nonnative species. While bull trout may have slightly more specific habitat requirements in terms of stream temperatures and hyporheic flow from groundwater seeps, these PCEs for bull trout generally contain physical or biological features already described in the PCEs and BiOps for salmon and steelhead as essential to the conservation of salmon and steelhead (for example, spawning gravels, water quality and quantity, side channels, forage species). Therefore, the habitat actions designed to protect salmon PCE's will also have significant beneficial impacts for bull trout PCEs.

In addition, FCRPS operations that may affect recently designated bull trout critical habitat are not an irretrievable or irreversible commitment of resources so as to foreclose the implementation of a bull trout RPA. Resource commitments may occur as long as the action agency retains sufficient discretion and flexibility to modify its action to allow the formulation and implementation of an appropriate reasonable and prudent alternative. See ESA Consultation Handbook, page 2-7 ("[R]esource commitments may occur as long as the agency retains sufficient discretion and flexibility to modify its action to allow formulation and implementation of an appropriate reasonable and prudent alternative."). Here, FCRPS operations could be

[4] *Of the 13 listed ESU's, only the Lower Columbia River Coho salmon do not presently have designated critical habitat.*

modified to address the formulation of a Reasonable and Prudent Alternative if that became necessary during the course of the bull trout consultation.

Based upon our preliminary evaluation of the final critical habitat rule, and for the reasons described above, BPA reasons that the on-going operation of the 14 FCRPS projects will not result in an irreversible or irretrievable commitment of resources or have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative that may be discussed or developed through our upcoming bull trout critical habitat consultation. Thus, the on-going operations of these FCPRS projects will not violate Section 7(d) of the ESA during the upcoming bull trout consultations. The action agencies are in the process of preparing a more detailed biological assessment (BA). As soon as the BA is completed, we will forward that information to USFWS so that consultation on the designated bull trout critical habitat can be formally initiated.

F. Lorraine Bodi

F. Lorraine Bodi
Vice President, Environment, Fish and Wildlife

cc:
S. Wright - A-7
S. McNary - A-7
D. Rose - KEC-4
D. Gambetta - KEC-4
B. Maslen - KEW-4
J. Hilliard Creecy - KEWR -4
S. Bettin - KEWR-4
R. Roach - L-7
J. Gleason - LC-7
H. Harwood - PGB-5
D. Lane - PGB-5
Official File – KE (EQ-21)
Official File - L
Official File – PG

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(08-89)

United States Government **Department of Energy**

Bonneville Power Administration

memorandum

DATE: April 27, 2011

REPLY TO ATTN OF: KE-4

SUBJECT: ESA Section 7(d) Consultation with USFWS on bull trout critical habitat

TO: Gregory K. Delwiche, Senior Vice President, Power Services - P-6
THRU: Stephen R. Oliver, Vice President, Generation Asset Management - PG-5

In October 2010, the US Fish and Wildlife Service (USFWS) designated critical habitat for the bull trout in five western states. The Bonneville Power Administration (BPA) has determined that the operation of the 14 Federal Columbia River Power System (FCRPS) mainstem dams "may affect" portions of this recently designated habitat, which triggers an obligation to re-initiate consultation. See 50 CFR 402.16(d). In view of this obligation, an additional legal requirement is triggered under section 7(d) of the Endangered Species Act. Specifically, after initiation of consultation under subsection 7(a)(2), 7(d) mandates "the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2) of this section." 16 U.S.C. § 1536(d); *see also* 50 C.F.R. § 402.09.

This requirement continues until the requirements of § 7(a) 2 are satisfied.[1] An agency satisfies the requirements of § 7(a)(2) when it receives a "no jeopardy" opinion from USFWS, chooses a reasonable and prudent alternative recommended by USFWS, or chooses its own alternative not recommended by USFWS that is shown to avoid jeopardy or destruction or adverse modification of designated critical habitat." [2]

In making this 7(d) evaluation, BPA is considering the nature of its proposed action, the degree to which the proposed action conforms to its existing biological opinions on the bull trout species and designated critical habitat for Columbia Basin steelhead and salmon, and the potential effects the proposed action is expected to have on the primary constituent elements of the recently designated bull trout critical habitat.

The action agencies completed a consultation on the effects of FCRPS operations on the listed bull trout species in 2000.[3] Although designated critical habitat was not addressed in that opinion (it had not yet been designated), effects upon bull trout habitat were considered, at least on some levels, in that opinion. The USFWS requested that certain aspects of the 2000 FCRPS

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operations be modified (which the action agencies agreed to do), and USFWS concluded that the FCRPS operations did not *jeopardize* the continued existence of the species. Thus, there is substantial information in the 2000 bull trout BiOp indicating that FCRPS operations do not significantly degrade or destroy the habitat requirements of the species.

The proposed action for the upcoming bull trout designated critical habitat consultation will, as an initial matter, be the Reasonable and Prudent Alternative (RPA) described in the 2008 and 2010 supplemental NOAA FCRPS Biological Opinion on 13 federally listed species of Columbia Basin salmon and steelhead. This is because BPA and the two federal agencies who operate the FCRPS dams (the U.S. Army Corps and Bureau of Reclamation, collectively the 'Action Agencies') have formally committed to carry out the RPA described in that opinion. As such, the proposed action includes habitat, hatchery, and predation management actions to mitigate for the adverse effects of the hydrosystem. In addition, the proposed action includes numerous research, monitoring and evaluation actions to support and inform adaptive management decisions to ensure that the proposed actions perform as they are intended.

Besides protecting the species, the proposed action also includes actions designed to protect the designated critical habitat for twelve listed ESUs of salmon and steelhead critical habitat.[4] The designated critical habitat for the twelve ESUs refers to features of the salmon and steelhead habitat, such as spawning and rearing areas, as well as safe passage through migration corridors that are essential to their survival. The proposed action maintains a broad habitat program that will protect and improve tributary and estuary habitat based on specific biological needs of fish.

Although critical habitat for salmon and bull trout differ, the critical habitat designations overlap substantially. For example, the geographic area of the designations, especially those locations where the effects of the FCRPS operations may affect primary constituent elements, are fundamentally the same for either designation. In addition, the content of the primary constituent elements for bull trout and salmon are substantially similar. As described in the final rule, the PCEs for bull trout relate to: (1) Water quality; (2) migration habitat; (3) food availability; (4) in-stream habitat; (5) water temperature; (6) substrate characteristics; (7) stream flow; (8) water quantity; and (9) nonnative species. While bull trout may have slightly more specific habitat requirements in terms of stream temperatures and hyporheic flow from groundwater seeps, these PCEs for bull trout generally contain physical or biological features already described in the PCEs and BiOps for salmon and steelhead as essential to the conservation of salmon and steelhead (for example, spawning gravels, water quality and quantity, side channels, forage species). Therefore, the habitat actions designed to protect salmon PCE's will also have significant beneficial impacts for bull trout PCEs.

In addition, FCRPS operations that may affect recently designated bull trout critical habitat are not an irretrievable or irreversible commitment of resources so as to foreclose the implementation of a bull trout RPA. Resource commitments may occur as long as the action agency retains sufficient discretion and flexibility to modify its action to allow the formulation and implementation of an appropriate reasonable and prudent alternative. See ESA Consultation Handbook, page 2-7 ("[R]esource commitments may occur as long as the agency retains sufficient discretion and flexibility to modify its action to allow formulation and implementation of an appropriate reasonable and prudent alternative."). Here, FCRPS operations could be

[4] *Of the 13 listed ESU's, only the Lower Columbia River Coho salmon do not presently have designated critical habitat.*

modified to address the formulation of a Reasonable and Prudent Alternative if that became necessary during the course of the bull trout consultation.

Based upon our preliminary evaluation of the final critical habitat rule, and for the reasons described above, BPA reasons that the on-going operation of the 14 FCRPS projects will not result in an irreversible or irretrievable commitment of resources or have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative that may be discussed or developed through our upcoming bull trout critical habitat consultation. Thus, the on-going operations of these FCPRS projects will not violate Section 7(d) of the ESA during the upcoming bull trout consultations. The action agencies are in the process of preparing a more detailed biological assessment (BA). As soon as the BA is completed, we will forward that information to USFWS so that consultation on the designated bull trout critical habitat can be formally initiated.

F. Lorraine Bodi

F. Lorraine Bodi
Vice President, Environment, Fish and Wildlife

cc:
S. Wright - A-7
S. McNary - A-7
D. Rose - KEC-4
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B. Maslen - KEW-4
J. Hilliard Creecy - KEWR -4
S. Bettin - KEWR-4
R. Roach - L-7
J. Gleason - LC-7
H. Harwood - PGB-5
D. Lane - PGB-5
Official File – KE (EQ-21)
Official File - L
Official File – PG

srmcnary:mkk:5135:4/27/2011 (ERMS\EQ-21\Bodi ESA 7d memo.doc)

Barco III,John W (BPA) - A-7

Subject: Updated: Action Agencies Bull Trout Consultation Kick Off
Location: BPA HQ 376; Bridge 503-230-3344, p/c 2354

Start: Thu 4/7/2011 12:30 PM
End: Thu 4/7/2011 2:30 PM

Recurrence: (none)

Organizer: Lane,Dominic P - PGB-5

Barco III,John W (BPA) - A-7

Subject: Invitation: FCRPS Consultation Briefing (note slight time change) @ Tue Jul 1, 2014 2pm - 3pm (daniel_brown@fws.gov)
Location: FWS Regional Office, Conference Room 3 (3rd Floor), 911 NE 11th Ave, Portland, OR 97232

Start: Tue 7/1/2014 2:00 PM
End: Tue 7/1/2014 3:00 PM

Recurrence: (none)

Meeting Status: Accepted

Organizer: Daniel Brown

more details »

FCRPS Consultation Briefing (note slight time change)
BPA/COE/BOR Brief the FWS on Status of FCRPS Consultation
- Timing
- Process
- Facility specific items

Conference line:

Phone: 877-693-7017
Participant: 896726#

When: Tue Jul 1, 2014 2pm – 3pm Pacific Time

Where: FWS Regional Office, Conference Room 3 (3rd Floor), 911 NE 11th Ave, Portland, OR 97232 (map)

Calendar: daniel_brown@fws.gov

Who:
- Daniel Brown - organizer
- Howard Schaller
- david.t.cook1@usace.army.mil
- Wade Fredenberg
- srmcnary@bpa.gov
- Lori Postlethwait
- gayle.n.lear@usace.army.mil
- Ken Berg
- jwbarco@bpa.gov
- Kathryn Puckett
- Theresa Rabot
- Eric Nagle
- Ted Buerger
- Michael Carrier
- Larry Salata
- chiara.v.reillo@usace.army.mil
- Duane Mecham
- Paul Henson
- rock.d.peters@usace.army.mil

Going? Yes - Maybe - No more options »
Invitation from Google Calendar

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