

**APPENDIX A**

**INFORMATION LETTER FROM U.S. BUREAU OF RECLAMATION**

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BE EARLY REPLY TO:

## United States Department of the Interior

### BUREAU OF RECLAMATION

Snake River Area Office  
214 Broadway Avenue  
Boise, Idaho 83702-7298

SRA-1203  
ENV-1.10

February 7, 2002

**Subject: Scoping for Programmatic Environmental Assessment of  
Reclamation's Idaho Subbasin Habitat Improvement Program of  
Biological Opinion - Federal Columbia River Power System**

Dear Ladies and Gentlemen:

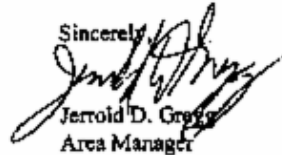
A biological opinion for the Federal Columbia River Power System issued by the National Marine Fisheries Service in December 2000 directs the Bureau of Reclamation (Reclamation) to engage in certain forms of fish habitat improvement activities in the Lemhi, Upper Salmon, Little Salmon, and Middle Fork Clearwater subbasins. As part of implementing activities associated with this biological opinion, and in compliance with the National Environmental Policy Act (NEPA), Reclamation is initiating a programmatic Environmental Assessment (EA) concerning this habitat improvement program.

Enclosed with this letter is a scoping paper that describes the purpose and need, proposed action, and circumstances surrounding Reclamation's effort. This scoping effort is the first step in the programmatic EA process. Your comments on issues related to the enclosed material will assist us in determining issues to be included in the programmatic EA, and may help in developing alternatives to our proposed action. Written comments for this step of the process are requested by March 8, 2002. Additional opportunities for comment will be provided when the draft EA is distributed for public review. You are encouraged to return the enclosed survey to express your interest in reviewing the draft EA when it becomes available during the public comment period.

You are welcome to forward these materials to others who you think may be interested in this information.

If you have questions concerning the habitat improvement program or this particular NEPA compliance activity, you may contact Mr. Joe Spinazola of Reclamation's Snake River Area Office at (208) 334-9856.

Sincerely,



Jerrold D. Gregg  
Area Manager

Enclosures

A Century of Water for the West  
1902-2002

ha: 21-6-104 (Kidd)

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# DRAFT Programmatic BMPs for Reclamation

## Headgates/Screens in Idaho

**Introduction** Draft BMPs introduced in this section were developed in consultation with NMFS staff for offstream screen and headgate structures and in-stream pumped diversions. The Draft BMPs will be refined in a subsequent programmatic Biological Assessment. BMPs refined during programmatic consultation could be modified or augmented as part of consultation on individual, site-specific, in-stream projects. All actions related to the implementation of Action 149 will be conditional to the appropriate BMPs developed during forthcoming programmatic and site-specific consultation with NMFS and USFWS.

### 1. **Specifically Authorized Activities**

#### 1. Headgate Repair/Replacement

1. Description: Build, rebuild, repair, upgrade, or relocate headgates at irrigation diversions, including those at heads of ditches at the stream edge.
2. Limitations/Details
  1. Removal and fill is minimized to the maximum extent possible. In-water removal (excavation) and fill (including riprap) up to 20 cubic yards is permitted.
  2. Headwalls of concrete, timber, plastic, or metal expressly are permitted. Un-hardened concrete is considered a pollutant and shall not be permitted in flowing waters. Cast-in-place concrete must be protected from contact with flowing waters for 8 hours after pouring.

#### 2. Canal Fish Screens

1. Description: Screening of canal-type surface water diversions with conventional screening technology (as noted below) including construction of fish bypass piping and appurtenances, installed downstream of closed, functioning headgates. This includes realignment and repositioning of ditches, and construction of fish bypass returns to the river.
2. Limitations/Details:
  1. Screens to conform to NMFS published fish screen criteria.<sup>i</sup>
  2. Excludes in-stream or bankside fish screens.
  3. Surface water in the work area must be isolated from the creek.
  4. Entire ditch shall be screened by a single screen structure.
  5. Limited to screens of less than 20 cfs.
  6. Fish shall be able to volitionally avoid the screen, that is, swim away or otherwise avoid the screen (E.g., no coandas or horizontal screens.) Ambient flow around screens shall safely return a neutral particle, e.g., “fish,” away from the screen hazard and back to the

# DRAFT Programmatic BMPs for Reclamation

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- main channel. Screens with sheet flow are prohibited.
7. Infiltration galleries not allowed.
3. Acceptable Screens
    1. Rotating drum type, constructed, or
    2. Flat Plate type screen, aligned within 45 degrees from vertical.
  4. Types of acceptable screen cleaning:
    1. Mechanical brushing, wiping, or sweeping
    2. Water displacement (for example, air-burst systems)
    3. Water jets
    4. Screens less than 1 cfs are not required to have cleaners, provided that approach velocities remain less than 0.2 fps.
    5. Rotating drum screens employ an acceptable passive screen cleaning process when constructed to NMFS criteria
  5. Frequency of cleaning: Screen cleaners shall be designed to have the ability to clean the entire screen once every 4 minutes, minimum, 24/7. (However, in practice screens need only be operated as frequently as required to keep screens clean.)
  6. Efficacy: Screen cleaners shall remain at least 90% unclogged between cleaning cycles; maximum screen approach velocity shall be less than 0.4 fps at all times.
3. Riverine Pump Suction Screens
    1. Description
      1. End-of-pipe pump, commercially available pump suction screens including all components from the river to the pump such as, but not limited to piping, piping support structures, piles, concrete supports.
    2. Limitation/Details
      1. Limited in-water excavation identical to that authorized for headgates (noted above) is authorized.
      2. End-of-pipe suction screens may be employed in gravity diversions, if appropriate.
      3. Screens to conform to NMFS published pump screen criteria.<sup>ii</sup>
2. **Federal Nexus**
    1. The riparian work envisioned here requires consultation under the Endangered Species Act. In this case, a Section 7 consultation under the Endangered Species Act is appropriate because of Reclamation's obligation to mitigate for activities conducted elsewhere<sup>1</sup> in the Columbia Basin. The mitigation work here will not

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<sup>1</sup>Specifically, Federal Columbia River Power System (FCRPS) Reasonable and Prudent Alternative (RPA) 149

# DRAFT Programmatic BMPs for Reclamation

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likely or necessarily be on projects that Reclamation owns, controls, or operates and the long-term outcome of these projects will not be under Reclamation's control.

2. Any "take" protection derived from an appropriate ESA consultation will be conferred on Reclamation directly, but may also flow through to Reclamation's agents inasmuch as they prosecute the work in accordance with these terms and conditions.
  3. To the extent that the terms and conditions imposed herein require actions in the future, such as monitoring, revegetation, etc., Reclamation shall bind its agents to perform and conform according to these terms and conditions. Where the term Reclamation is used it refers to the U.S. Bureau of Reclamation, and its authorized agents.
  4. These conditions are those imposed by NMFS; other regulatory agencies may have other, more restrictive requirements, for example, the Corps of Engineers' Section 404 permitting requirements.
3. **General Limitations**
1. Limited to Reclamation activities within Idaho on streams with historic presence of anadromous fishes.
  2. This "Programmatic" expires on Dec 31, 2003, unless extended. NMFS will evaluate the work done in 2003 and consider extending or modifying it, based upon observations and experience.
  3. Within any 1000' reach of river within the riparian buffer area<sup>iv</sup>:
    1. Though in-water activities to construct these improvements may be authorized, as noted elsewhere herein, in-water excavation or fill in excess of 10 cu. yards per year to maintain these features is not authorized by this document.
    2. Permanent<sup>iii</sup> unimproved or gravelled access roads are limited to 500' extensions beyond existing roads. For any new culverts:
      1. Maximum average water velocity<sup>v</sup> shall not exceed 1 foot per second
      2. Suitable grade controls must be included to prevent culvert failure caused by changes in stream elevation.
    3. Completed headgate and screen structures (including rip-rap) are limited to a total footprint of less than 3,000 sq. ft.
    4. The totality of riparian buffer area<sup>iv</sup> disturbances shall be limited to 10,000 sq. ft.
  4. NMFS shall be notified when project construction for any project is commenced (email to [Janna.Brimmer@NOAA.gov](mailto:Janna.Brimmer@NOAA.gov) or phone 208-756-6496); once commenced, all work shall be completed in 45 calendar days.
  5. Diversion dam construction or repair is not included.
4. **In-water work period**



# DRAFT Programmatic BMPs for Reclamation

## Headgates/Screens in Idaho

1. Reclamation shall observe written in-water guidelines provided by NMFS. Reclamation may deem written in-water guidelines provided by IDF&G as if originating from NMFS and USFWS, unless otherwise notified by either agency. Work within the active channel of all ESA-listed salmonid-bearing streams, or in systems which could potentially contribute sediment or toxicants to downstream fish-bearing systems, will be completed within NMFS and USFWS approved in-water work period. If a site-specific project is within the distribution for bull trout, the in-water work period will be scheduled to avoid their critical life history stages.
  2. Extensions of the in-water work period, including those for work outside the wetted perimeter of the stream but below the ordinary high water mark must be approved by NMFS.
5. **Pollution and erosion control**
1. Turbidity Limits
    1. Turbidity downstream of the project area shall be limited to 30 NTU's or 125% of background turbidity above the project area, whichever is higher. Water discharged from sediment basins or pumped from project area shall conform to the above, utilizing such methods as settlement basins and discharge into upland areas, as required, to remain within specified turbidity limits. Discharges of water exceeding turbidity limits and discharging into spawning areas or areas with submerged vegetation are prohibited.
    2. No turbidity creating work is permitted within 300 feet upstream of fish spawning areas.
    3. Except as authorized under head gate installation and pump screen installation above, no equipment is permitted in the flowing water portion stream channel where sediment could be released downstream.
  2. Pollution and Erosion Control Plan.
    1. A *Pollution and Erosion Control Plan* (PECP) will be developed for each project activity to prevent point-source pollution related to construction operations. The PECP will describe the elements listed below and meet requirements of all applicable laws and regulations:
      1. Methods that will be used to prevent erosion and sedimentation associated with access roads, stream crossings, construction sites, borrow pit operations, haul roads, equipment and material storage sites, fueling operations and staging areas.
      2. Methods that will be used to confine and remove and dispose of excess concrete, cement and other mortars or bonding agents, including measures for washout facilities.
      3. A description of the hazardous products or materials that will be used, including inventory, storage, handling, and monitoring.

## DRAFT Programmatic BMPs for Reclamation Headgates/Screens in Idaho

4. A spill containment and control plan with notification procedures, specific clean up and disposal instructions for different products, quick response containment and clean up measures that will be available on site, proposed methods for disposal of spilled materials, and employee training for spill containment.
  5. Measures that will be taken to prevent construction debris from falling into any aquatic habitat. Any material that falls into a stream during construction operations will be removed in a manner that has a minimum impact on the streambed and water quality.
  6. The plan shall note that a supply of erosion control materials (e. g., silt fence and straw bales) is on hand to respond to sediment emergencies. Sterile straw or hay bales shall be used to prevent introduction of weeds.
3. Pollution & Erosion Control Practices All temporary erosion controls (e. g., straw bales, silt fences) are in-place and appropriately installed downslope of project activities within the riparian area. Effective erosion control measures will be in-place at all times during the contract, and will remain and be maintained until such time that permanent erosion control measures are effective. Unless specifically noted as not needed in the approved *pollution and erosion* control plan, the following shall be required:
1. All project operations, except efforts to minimize storm or high flow erosion, will cease under high flow conditions that may result in inundation of the project area.
  2. Prior to significant alteration of the action area, the following actions will be accomplished:
    1. Construction impact area shall be delineated on project plans, and work confined to the noted area.
    2. Boundaries of the clearing limits associated with site access, construction, and operations will be flagged to prevent ground disturbance of critical riparian vegetation, wetlands, and other sensitive sites beyond the flagged boundary.
    3. The following materials shall be on-site to facilitate response to sediment emergencies:  
A supply of erosion control materials (e.g., silt fences and straw bales.)  
An oil absorbing floating boom (minimum 100 lineal feet) appropriate for the size of the stream shall be available on-site during all phases of construction whenever surface water is present.
    4. All temporary erosion controls noted in the erosion control plan shall be in place and appropriately installed downslope of project

# DRAFT Programmatic BMPs for Reclamation

## Headgates/Screens in Idaho

- activities in the riparian area. These shall be maintained at all times during the work, until such time that permanent erosion control measures are effective.
5. An assessment of potential spawning habitat 1,000 feet upstream and downstream of the project area shall be conducted prior to beginning construction when discharges associated with the construction might drain into the stream or when overland flow through disturbed project areas could temporarily drain into the stream.
  6. Reclamation would also avoid in-water construction between August 15 and September 30 to protect spawning bull trout as requested by USFWS. Surveys for adult bull trout would be conducted prior to construction for in-water projects in areas occupied by bull trout.
  7. Any outfall structures associated with this activity shall be placed to prevent discharge water from affecting aquatic vegetation, such as uprooting or scouring.
3. All equipment that is used for instream work shall be cleaned prior to operations below the bankfull elevation, in such a manner that wash water does not enter the creek. External oil and grease will be removed, along with dirt and mud.
  4. Vehicle staging, maintenance, refueling, and fuel storage areas shall be placed a minimum of 150' horizontal distance from any stream, when possible. All vehicle staging, maintenance, refueling, servicing, and fuel storage areas shall be on dry land above bankfull elevation. Equipment used for instream or riparian work shall be fueled and serviced in one of these areas.
  5. When not in use, vehicles will be stored in the vehicle staging area, whenever feasible.
4. Isolation of in-water work area
    1. The work area shall be isolated from creek waters to the extent necessary to attain and maintain turbidity standards noted above.
    2. Ensure that the work area is well isolated from the active flowing stream to minimize the potential for sediment entrainment with a cofferdam or similar structure made out of washed drain rock/w liners, water tubes, sandbags, sheet pilings, inflatable bags, etc. Pit run berms are specifically not authorized.
    3. No ground or substrate disturbing action will occur within the active channel 300 feet upstream of potential spawning habitat as measured at the thalweg without isolation of the work area from flowing waters.

# DRAFT Programmatic BMPs for Reclamation

## Headgates/Screens in Idaho

Isolation activities shall conform to the limits on instream work described in General Limitations, elsewhere herein.

### 6. **Fish Handling & Transfer Protocols**

1. If listed fish are found in the work isolation area attempts shall be made to capture/move fish from the work isolation area as is prudent to minimize their risk of injury. Reclamation will coordinate fish handling activities with USFWS, NMFS, and IDFG.
2. If an area is to be dewatered to the extent that fish are concentrated and their viability is in question, they shall be salvaged as noted herein.
3. Seining, if conducted, will be by or under the supervision of a fishery biologist experienced in such efforts and all staff working with the seining operation must have the necessary knowledge, skills, and abilities to ensure the safe handling of all ESA-listed fish. These efforts would be coordinated through IDFG, NMFS, and USFWS staff.
4. ESA-listed fish must be handled with extreme care and kept in water to the maximum extent possible during seining and transfer procedures.
5. The transfer of ESA-listed fish must be conducted using a sanctuary net that holds water during transfer to prevent the added stress of an out-of-water transfer.
6. Seined fish must be released as near as possible to capture sites.
7. The transfer of any ESA-listed fish from Reclamation to third-parties other than NMFS personnel requires written approval from NMFS.
8. Reclamation or its agents must obtain any other Federal, state, and local permits and authorizations necessary for the conduct of the seining activities.
9. Reclamation must allow NMFS or its designated representative to accompany field personnel during the seining activity, and allow such representative(s) to inspect Reclamation's seining records and facilities.
10. A description of fish handling and seining activities shall be included in the Post-Project report, and shall include:
  1. Name of the supervising biologist
  2. Methods used to isolate the work
  3. Methods used to minimize disturbances to ESA-listed species
  4. Stream conditions prior to and following placement and removal of barriers
  5. Means of fish removal
  6. Number of fish removed by species
  7. Condition of all fish released, and incidences of observed injury or mortality

### 7. **Interim Fish Passage for ESA-listed fish**

1. The work shall not create a fish barrier to either upstream or downstream ESA-listed fish migration.

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### Headgates/Screens in Idaho

2. Water will not be withdrawn from any waterbody containing salmonids unless screens compliant with NMFS screen criteria are employed.
  3. If fish are observed congregating above or below the project area NMFS shall be notified within 4 hours (email to [Janna.Brimmer@NOAA.gov](mailto:Janna.Brimmer@NOAA.gov) or phone 208-756-6496). NMFS and Reclamation shall confer to determine appropriate fish passage measures, or NMFS may unilaterally require measures for fish passage. These measures shall be implemented and be sufficient to allow ESA-listed fish to pass the project area. USFWS will be contacted regarding bull trout.
  4. Construction work shall not inhibit passage of any adult or juvenile salmonid species throughout the construction period or after project completion. All culvert and road designs must comply with IDF&G guidelines and criteria for stream-road crossings with appropriate grade controls to prevent culvert failure due to changes in stream elevation. Channel modifications which could adversely affect fish passage are not authorized.
8. **Construction Practices**
1. Construction impacts will be confined to the minimum area necessary to complete the project. In-water blasting is not permitted; however, rock splitting by chemical expansion rock splitting or shotshell powered rock splitting (e.g. *Boulder Busters*) is permitted.
  2. Temporary Access Roads are only permitted as described in General Limitations.
  3. Stream Crossings
    1. No equipment crossings of a flowing stream are permitted at known or suspected spawning areas, or within 300' upstream of spawning activities.
    2. Where stream crossings are essential, crossing designs shall not increase risks of channel re-routing due to high water conditions.
    3. Vehicles and machinery shall cross riparian areas and streams at right angles to the main channel where possible.
  4. Heavy equipment use will be restricted as follows.
    1. Where sediment could be dislodged, flow downstream, and exceed turbidity limits, motorized equipment possessing wheels/tracks is not authorized to be in a flowing stream at all. In such case, all equipment work shall be performed from the bank, or in an area hydraulically isolated from the flowing stream.
    2. When heavy equipment is required, Reclamation will use equipment having the least impact (e. g., minimally disruptive, rubber-tired where feasible)
    3. Earthwork, including drilling, blasting, excavation, dredging, filling and compacting, is completed in the following manner:
      1. Imported boulders, rock, woody materials and other natural construction materials used for the project must be obtained from outside of the riparian area. Excavated materials from construction

# DRAFT Programmatic BMPs for Reclamation

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may be used; however the local area may not be “mined” for materials.

2. During excavation, native streambed materials will be stockpiled above the bankfull elevation for later use. In most cases, material removed during excavation will only be placed in locations where it cannot enter streams or other water bodies. However, once riprap has been placed, excess native materials will be placed over the top of the riprap in a way to support vegetative growth.
5. Site preparation. (Disposition of native stream materials, topsoil, surface vegetation and major root systems.)
  1. Large wood, riparian vegetation, top soil, surface vegetation that is moved or altered during construction will stay on site or be replaced with a functional equivalent.
  2. Clearing and grubbing shall be restricted to within a 50 feet perimeter outside of the project footprint and access road.
  3. Trees  
No tree (3 inches diameter at breast height or greater) will be removed from within 50 feet horizontal distance of the ordinary high water mark.  
No more than 5 trees (3 inches diameter at breast height or greater) total may be removed from the area spanning 50 feet to 150 feet horizontal distance from the ordinary high water mark.
1. **Site Restoration:** Site restoration. All streambanks, soils and vegetation disturbed by the project are cleaned up and restored as follows.
  1. Restoration goal. The goal of site restoration is renewal of habitat access, water quality, production of habitat elements (such as large woody debris), channel conditions, flows, watershed conditions and other ecosystem processes that form and maintain productive fish habitats.
  2. Streambank shaping. Damaged streambanks must be restored to a natural slope, pattern and profile suitable for establishment of permanent woody vegetation.
  3. Revegetation. Areas requiring revegetation must be replanted before the first April 15 following construction with a diverse assemblage of species that are native to the project area or region, including grasses, forbs, shrubs and trees.
  4. Pesticides. No pesticide application is allowed, although mechanical or other methods may be used to control weeds and unwanted vegetation.
  5. Fertilizer. No surface application of fertilizer may occur within 50-feet of any stream channel.
  6. Fencing. Fencing must be installed as necessary to prevent access to revegetated sites by livestock or unauthorized persons.

# DRAFT Programmatic BMPs for Reclamation

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7. All exposed or disturbed areas will be stabilized to prevent erosion.

### 2. **Post-Project Report**

Briefly describe stream conditions prior to and following construction activities, and any notable events.

Briefly describe methods used to minimize disturbances to ESA listed species that were not previously described in the EA.

Document any fish handling activities, if conducted.

Report on project goals and objectives.

**Program Review:** Reclamation will meet with NMFS and USFWS prior to March 31 each year to discuss the prior year's monitoring report and any actions that may be necessary to make the program more effective.

### **ESSENTIAL FISH HABITAT**

"Essential fish habitat" (EFH) provisions of the Magnuson-Stevens Act (MSA) require heightened consideration of a fish habitat in resource management decisions. EFH is defined in the section 3 of the MSA as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." NMFS interprets EFH to include aquatic areas and their associated physical, chemical and biological properties used by fish that are necessary to support a sustainable fishery and the contribution of the managed species to a healthy ecosystem.

The MSA and its implementing regulations at 50 CFR 600.920 (j) require that before a Federal agency may authorize, fund or carry out any action that may adversely effect EFH, it must consult with NMFS and, if requested, the appropriate Regional Fishery Management Council. The purpose of consultation is to develop a conservation recommendation that addresses all reasonably foreseeable adverse effects to EFH. Further, the action agency must provide a detailed response in writing to NMFS and the appropriate Council within 30 days after receiving an EFH conservation recommendation. The response must include measures proposed by the agency to avoid, minimize, mitigate, or offset the impact of the activity on EFH. If the response is inconsistent with conservation recommendations of NMFS, the agency must explain its reasons for not following the recommendations, including the scientific justification for any disagreements over the anticipated effects of the proposed action and the measures needed to avoid, minimize, or mitigate such effects.

This consultation requirement does not distinguish between actions which occur within EFH and actions outside EFH. Any reasonable attempt to encourage the conservation of EFH must take into account actions that occur outside EFH, such as upstream and up slope activities that may have an adverse effect on EFH. Therefore, EFH consultation with NMFS is required by Federal agencies undertaking, permitting or funding activities that may adversely affect EFH, whatever its location.

**APPENDIX B**

**DRAFT**  
**BEST MANAGEMENT PRACTICES (BMPs)**



## DRAFT Programmatic BMPs for Reclamation Headgates/Screens in Idaho

The objective of this consultation is to determine whether the proposed action, adoption of permit conditions for certain activities within the State of Idaho by Reclamation that would preclude the need for further individual ESA consultation and the development of standard local operating procedures for these activities, is likely to adversely affect EFH. If the proposed action is likely to adversely affect EFH, a conservation recommendation will be provided.

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i. See for more information <http://www.nwr.noaa.gov/1hydrop/hydroweb/ferc.htm>.

ii. See for more information <http://www.nwr.noaa.gov/1hydrop/pumpcrit1.htm>.

iii. Permanent means a feature that will remain after construction activities are concluded.

iv. "Riparian buffer area" means land within: (1) 150 feet of any natural water occupied by listed salmonids during any part of the year or designated as critical habitat; (2) 100 feet of any natural water within 1/4 mile upstream of areas occupied by listed salmonids or designated as critical habitat and that is physically connected by an above-ground channel system such that water, sediment, or woody material delivered to such waters will eventually be delivered to water occupied by listed salmonids or designated as critical habitat; and (3) 50 feet of any natural water upstream of areas occupied by listed salmonids or designated as critical habitat and that is physically connected by an above-ground channel system such that water, sediment, or woody material delivered to such waters will eventually be delivered to water occupied by listed salmonids or designated as critical habitat. "Natural water" means all perennial or seasonal waters except water conveyance systems that are artificially constructed and actively maintained for irrigation.

v. "Maximum average water velocity" means the average of water velocity within the barrel of the culvert calculated using the 10 percent annual exceedance of the daily average flow.

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## **APPENDIX C**

### **STREAMFLOW DATA**

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**Appendix C. Annual and Monthly Streamflow Statistic, in cfs<sup>1</sup>**

Site	DA <sup>2</sup> (mi <sup>2</sup> )	POR <sup>3</sup> (Year)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Min	Max	Ave.
<b>Upper Salmon River Sub-basin</b>																	
Salmon River below Yankee Fork (USGS 13296500)	802	1921-2000	411	404	422	926	2,581	3,217	1,404	599	490	508	496	444	160	10,500	977
Salmon River near Clayton (USGS 13298000)	532	1928-1939; 1973-1981	79.0	79.1	85.6	146	434	870	450	171	124	119	103	84.5	29	3,580	235
Salmon River near Challis (USGS 13337000)	1,800	1928-1972	616	619	626	1,279	3,687	4,968	2,257	982	774	791	736	659	395	17,300	1,473
<b>Middle for Clearwater River Sub-basin</b>																	
Selway River (USGS 13336500)	1,910	1911-2001	1,272	1,552	2,256	6,031	13,360	1,1870	3,149	922	752	959	1,296	1,435	150	48,900	3,753
Lochsa River	1,180	1910-2001	1,115	1,302	1,841	4,879	10,180	8,360	2,198	674	562	744	1,091	1,246	110	35,100	2,852
Clearwater River near Kamiah (USGS 13339000)	4,850	1910-1965	2,992	3,317	5,099	14,720	29,959	23,790	6,170	1,903	1,592	2,275	3,109	3,369	200	103,000	8,162
<b>Lemhi River Sub-basin</b>																	
Lemhi River near Lemhi (USGS 13305000)	895	1939-2000	231	238	260	260	310	550	298	150	164	255	278	235	34	2,430	272
Lemhi River below L5 Diversion (USGS 13305310)	1,218	1992-2000	272	284	334	279	339	820	330	76.6	84.6	267	336	275	0.75	2,920	321
Lemhi River at Salmon (USGS 13305500)	1,270	1928-1942	205	218	253	293	302	577	208	70.4	121	232	268	219	14	2,400	234
<b>Little Salmon River Sub-basin</b>																	
Mud Creek (USGS 13315500)	15.8	1937-1959	4.67	5.29	14.7	98.3	74.4	12.4	3.61	1.99	1.8	2.46	3.82	8.17	0.5	395	19.6
Boulder Creek (USGS 13316000)	6.5	1938-1945	NA <sup>4</sup>	NA	NA	NA	68.3	35.1	6.29	2.18	1.63	2.10	NA	NA	0.5	244	NA
Little Salmon @ Riggins (USGS 13316500)	576	1951-2000	332	394	676	1,326	2,379	2381	704	261	225	241	291	327	60	12,600	798

<sup>1</sup>Source: USGS, March 2002.

<sup>2</sup>DA = Drainage Area above stream gage location

<sup>3</sup>POR = Period of record

<sup>4</sup>NA = Not Available

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## **APPENDIX D**

### **WATER QUALITY STANDARDS**

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## Appendix D

**IDAHO ADMINISTRATIVE CODE**  
**Department of Environmental Quality**

**IDAPA 58.01.02 - Water Quality Standards  
and Wastewater Treatment Requirements**

### 100. SURFACE WATER USE DESIGNATIONS.

Water bodies are designated in Idaho to protect water quality for existing or designated uses. The designated use of a water body does not imply any rights to access or ability to conduct any activity related to the use designation, nor does it imply that an activity is safe. Wherever attainable, the designated beneficial uses for which the surface waters of the state are to be protected include:

(11-9-01)T

#### 01. Aquatic Life.

(7-1-93)

a. Cold water (COLD): water quality appropriate for the protection and maintenance of a viable aquatic life community for cold water species. (4-5-00)

b. Salmonid spawning: waters which provide or could provide a habitat for active self-propagating populations of salmonid fishes. (7-1-93)

c. Seasonal cold water (SC): water quality appropriate for the protection and maintenance of a viable aquatic life community of cool and cold water species, where cold water aquatic life may be absent during, or tolerant of, seasonally warm temperatures. (4-5-00)

d. Warm water (WARM): water quality appropriate for the protection and maintenance of a viable aquatic life community for warm water species. (4-5-00)

e. Modified (MOD): water quality appropriate for an aquatic life community that is limited due to one (1) or more conditions set forth in 40 CFR 131.10(g) which preclude attainment of reference streams or conditions. (4-5-00)

#### 02. Recreation. (7-1-93)

a. Primary contact recreation (PCR): water quality appropriate for prolonged and intimate contact by humans or for recreational activities when the ingestion of small quantities of water is likely to occur. Such activities include, but are not restricted to, those used for swimming, water skiing, or skin diving. (4-5-00)

b. Secondary contact recreation (SCR): water quality appropriate for recreational uses on or about the water and which are not included in the primary contact category. These activities may include fishing, boating, wading, infrequent swimming, and other activities where ingestion of raw water is not likely to occur. (4-5-00)

#### 03. Water Supply.

(7-1-93)

a. Domestic: water quality appropriate for drinking water supplies. (4-5-00)

b. Agricultural: water quality appropriate for the irrigation of crops or as drinking water for livestock. *This use applies to all surface waters of the state.* (4-5-00)

c. Industrial: water quality appropriate for industrial water supplies. *This use applies to all surface waters of the state.* (4-5-00)

04. **Wildlife Habitats.** Water quality appropriate for wildlife habitats. *This use applies to all surface waters of the state.* (4-5-00)

05. **Aesthetics.** This use applies to all surface waters of the state. (7-1-93)

### 120. CLEARWATER BASIN.

Surface waters found within the Clearwater basin total ten (10) subbasins and are designated as follows: (4-5-00)

**06. Middle Fork Clearwater Subbasin.** The Middle Fork Clearwater Subbasin, HUC 17060304, is comprised of eleven (11) water body units.

PROGRAMMATIC EA FOR IMPLEMENTATION OF ACTION 149  
*U.S. Bureau of Reclamation*

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Middle Fork Clearwater River – confluence of Lochsa and Selway River to mouth	COLD SS	PCR	DWS SRW
C-2	Clear Creek - South Fork Clear Creek to mouth			
C-3	West Fork Clear Creek - source to mouth			
C-4	South Fork Clear Creek - source to mouth			
C-5	Kay Creek - source to mouth			
C-6	Clear Creek - source to South Fork Clear Creek			
C-7	Middle Fork Clear Creek - source to mouth			
C-8	Browns Spring Creek - source to mouth			
C-9	Pine Knob Creek - source to mouth			
C-10	Lodge Creek - source to mouth			
C-11	Maggie Creek - source to mouth			

**130. SALMON BASIN.**

Surface waters found within the Salmon basin total twelve (12) subbasins and are designated as follows: (4-5-00)

**06. Lemhi Subbasin.** The Lemhi Subbasin, HUC 17060204, is comprised of sixty-six (66) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Lemhi River - Kenney Creek to mouth	COLD SS	PCR	DWS SRW
S-2	Mulkey Creek - source to mouth			
S-3a	Withington Creek - diversion (T20N, R23E, Sec. 09) to mouth			
S-3b	Withington Creek - source to diversion (T20N, R23E, Sec. 09)	COLD SS	SCR	
S-4	Haynes Creek - source to mouth			
S-5	Lemhi River - Hayden Creek to Kenney Creek	COLD SS	PCR	DWS SRW
S-6	Baldy Creek - source to mouth			
S-7a	McDevitt Creek - diversion (T19N, R23E, Sec. 36) to mouth			
S-7b	McDevitt Creek - source to diversion (T19N, R23E, Sec. 36)	COLD SS	SCR	
S-8	Muddy Creek - source to mouth			
S-9	Hayden Creek - Basin Creek to mouth	COLD SS	SCR	

PROGRAMMATIC EA FOR IMPLEMENTATION OF ACTION 149  
*U.S. Bureau of Reclamation*

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-10	Basin Creek - Lake Creek to mouth	COLD SS	SCR	
S-11	Basin Creek - confluence of McNutt Creek and Trail Creek to Lake Creek	COLD SS	SCR	
S-12	Trail Creek - source mouth			
S-13	McNutt Creek - source to mouth			
S-14	Lake Creek - source to mouth			
S-15	Hayden Creek - Bear Valley Creek to Basin Creek	COLD SS	SCR	
S-16	Bear Valley Creek -Wright Creek to mouth	COLD SS	SCR	
S-17	Bear Valley Creek - source to Wright Creek	COLD SS	SCR	
S-18	Wright Creek - source to mouth			
S-19	Kadletz Creek - source to mouth			
S-20	Hayden Creek -West Fork Hayden Creek to Bear Valley Creek	COLD SS	SCR	
S-21	Hayden Creek - source to West Fork Hayden Creek	COLD SS	SCR	
S-22	West Fork Hayden Creek - source to mouth			
S-23	East Fork Hayden Creek - source to mouth	COLD SS	SCR	
S-24	Lemhi River - Peterson Creek to Hayden Creek	COLD SS	PCR	DWS SRW
S-25	Lemhi River - confluence of Big and Little Eight Mile Creeks to Peterson Creek	COLD SS	PCR	DWS SRW
S-26a	Mill Creek - diversion (T16N, R24E, Sec. 22) to mouth			
S-26b	Mill Creek - source to diversion (T16N, R24E, Sec. 22)	COLD SS	SCR	
S-27	Walter Creek - source to mouth			
S-28	Lee Creek - source to mouth			
S-29a	Big Eight Mile Creek - diversion (T16N, R25E, Sec. 21) to mouth			
S-29b	Big Eight Mile Creek - source to diversion (T16N, R25E, Sec. 21)	COLD SS	SCR	
S-30	Lemhi River - confluence of Eighteen Mile Creek and Texas Creek to the confluence of Big and Little Eight Mile Creeks			
S-31	Big Timber Creek - Little Timber Creek to mouth			
S-32a	Little Timber Creek - diversion (T15N, R25E, Sec. 24) to mouth			
S-32b	Little Timber Creek - source to diversion (T15N, R25E, Sec. 24)	COLD SS	SCR	

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Unit	Waters	Aquatic Life	Recreation	Other
S-33	Big Timber Creek - Rocky Creek to Little Timber Creek	COLD SS	SCR	
S-34	Rocky Creek - source to mouth			
S-35	Big Timber Creek - source to Rocky Creek	COLD SS	SCR	
S-36	Texas Creek - Deer Creek to mouth			
S-37	Deer Creek - source to mouth			
S-38	Texas Creek - Meadow Creek to Deer Creek			
S-39	Meadow Lake Creek - source to mouth			
S-40	Texas Creek - source to Meadow Lake Creek			
S-41	Eighteen Mile Creek - Hawley Creek to mouth			
S-42	Eighteen Mile Creek - Clear Creek to Hawley Creek			
S-43	Eighteen Mile Creek - Divide Creek to Hawley Creek	COLD	SCR	
S-44	Divide Creek - source to mouth			
S-45	Eighteen Mile Creek - source to Divide Creek	COLD SS	SCR	
S-46	Clear Creek - source to mouth			
S-47	Ten Mile Creek - Powderhorn Gulch to mouth			
S-48	Ten Mile Creek - source to Powderhorn Gulch			
S-49	Powderhorn Gulch - source to mouth			
S-50a	Hawley Creek - diversion (T15N, R27E, Sec. 03) to mouth			
S-50b	Hawley Creek - source to diversion (T15N, R27E, Sec. 03)			
S-51a	Canyon Creek - diversion (T16N, R26E, Sec.22) to mouth			
S-51b	Canyon Creek - source to diversion (T16N, R26E, Sec.22)	COLD SS	SCR	
S-52a	Little Eight Mile Creek - diversion (T16N, R25E, Sec. 02) to mouth			
S-52b	Little Eight Mile Creek - source to diversion (T16N, R25E, Sec. 02)	COLD SS	SCR	
S-53	Peterson Creek - source to mouth			
S-54	Reese Creek - source to mouth			
S-55a	Yearian Creek - diversion (T17N, R24E, Sec. 03) to mouth			
S-55b	Yearian Creek - source to diversion (T17N, R24E, Sec. 03)	COLD SS	SCR	
S-56a	Agency Creek - diversion (T19N, R24E, Sec. 28) to mouth			
S-56b	Agency Creek - Cow Creek to diversion (T19N, R24E, Sec. 28)	COLD SS	SCR	

**PROGRAMMATIC EA FOR IMPLEMENTATION OF ACTION 149**  
**U.S. Bureau of Reclamation**

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-57	Cow Creek - source to mouth	COLD SS	SCR	
S-58	Agency Creek - source to Cow Creek	COLD SS	SCR	
S-59a	Pattee Creek - diversion (T19N, R24E, Sec. 16) to mouth			
S-59b	Pattee Creek - source to diversion (T19N, R24E, Sec. 16)	COLD SS	SCR	
S-60a	Pratt Creek - diversion (T20N, R23E, Sec. 11) to mouth			
S-60b	Pratt Creek - source to diversion (T20N, R23E, Sec. 11)	COLD SS	SCR	
S-61	Kenney Creek - source to mouth	COLD SS	SCR	
S-62a	Sandy Creek - diversion (T20N, R24E, Sec. 17) to mouth			
S-62b	Sandy Creek - source to diversion (T20N, R24E, Sec. 17)	COLD SS	SCR	
S-63	Wimpey Creek - source to mouth	COLD SS	SCR	
S-64a	Bohannon Creek - diversion (T21N, R23E, Sec. 22) to mouth			
S-64b	Bohannon Creek - source to diversion (T21N, R23E, Sec. 22)	COLD SS	SCR	
S-65a	Geertson Creek - diversion (T21N, R23E, Sec. 20) to mouth			
S-65b	Geertson Creek - source to diversion (T21N, R23E, Sec. 20)	COLD SS	SCR	
S-66a	Kirtley Creek - diversion (T21N, R22E, Sec. 02) to mouth			
S-66b	Kirtley Creek - source to diversion (T21N, R22E, Sec. 02)	COLD SS	SCR	

**12. Little Salmon Subbasin.** The Little Salmon Subbasin, HUC 17060210, is comprised of sixteen (16) water body units.

<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-1	Little Salmon River - Round Valley Creek to mouth	COLD SS	PCR	DWS SRW
S-2	Rapid River - source to mouth	COLD SS	PCR	DWS SRW
S-3	West Fork Rapid River - source to mouth			
S-4	Paradise Creek - source to mouth			

PROGRAMMATIC EA FOR IMPLEMENTATION OF ACTION 149  
*U.S. Bureau of Reclamation*

Unit	Waters	Aquatic Life	Recreation	Other
S-5	Boulder Creek - source to mouth			
S-6	Round Valley Creek - source to mouth			
S-7	Little Salmon River - source to Round Valley Creek	COLD SS	PCR	DWS SRW
S-8	Mud Creek - source to mouth			
S-9	Big Creek - source to mouth			
S-10	Goose Creek - source to mouth			
S-11	Brundage Reservoir			
S-12	Goose Lake			
S-13	Six Mile Creek - source to mouth			
S-14	Hazard Creek - source to mouth			
S-15	Hard Creek - source to mouth			
S-16	Elk Creek - source to mouth			

**140. SOUTHWEST IDAHO BASIN.**

Surface waters found within the Southwest basin total nineteen (19) subbasins and are designated as follows:(4-5-00)

**03. Upper Salmon Subbasin.** The Upper Salmon Subbasin, HUC 17060201, is comprised of one hundred thirty-two (132) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - Pennal Gulch to Pashimeroi River	COLD SS	PCR	DWS SRW
S-2	Morgan Creek - West Creek to mouth			
S-3	Morgan Creek - source to West Creek			
S-4	West Creek - Blowfly Creek to mouth			
S-5	Blowfly Creek - source to mouth			
S-6	West Creek - source to Blowfly Creek			
S-7	Challis Creek - Darling Creek to mouth			
S-8	Darling Creek - source to mouth			
S-9	Challis Creek - Bear Creek to Darling Creek			
S-10	Eddy Creek - source to mouth			
S-11	Bear Creek - source to mouth			
S-12	Challis Creek - source to Bear Creek			
S-13	Mill Creek - source to mouth			
S-14	Salmon River - Garden Creek to Pennal Gulch	COLD SS	PCR	DWS SRW

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<b>Unit</b>	<b>Waters</b>	<b>Aquatic Life</b>	<b>Recreation</b>	<b>Other</b>
S-15	Garden Creek - source to mouth			
S-16	Salmon River - East Fork Salmon River to Garden Creek	COLD SS	PCR	DWS SRW
S-17	Bayhorse Creek - source to mouth			
S-18	Lyon Creek - source to mouth			
S-19	Salmon River - Squaw Creek to East Fork Salmon River	COLD SS	PCR	DWS SRW
S-20	Kinnikinic Creek - source to mouth			
S-21	Squaw Creek - Cash Creek to mouth	COLD SS	SCR	
S-22	Cash Creek - source to mouth			
S-23	Squaw Creek - confluence of Aspen and Cinnabar Creeks to Cash Creek	COLD SS	SCR	
S-24	Aspen Creek - source to mouth			
S-25	Cinnabar Creek - source to mouth			
S-26	Bruno Creek - source to mouth			
S-27	Salmon River - Thompson Creek to Squaw Creek	COLD SS	PCR	DWS SRW
S-28	Thompson Creek - source to mouth	COLD SS	SCR	
S-29	Pat Hughes Creek -source to mouth			
S-30	Buckskin Creek - source to mouth			
S-31	Salmon River - Yankee Fork Creek to Thompson Creek	COLD SS	PCR	DWS SRW
S-32	Yankee Fork Creek - Jordan Creek to mouth COLD	COLD SS	PCR	DWS SRW
S-33	Ramey Creek - source to mouth			
S-34	Yankee Fork Creek - source to Jordan Creek COLD	COLD SS	PCR	DWS SRW
S-35	Five Mile Creek - source to mouth			
S-36	Eleven Mile Creek - source to mouth			
S-37	McKay Creek - source to mouth			
S-38	Twenty Mile Creek - source to mouth			
S-39	Ten Mile Creek - source to mouth			
S-40	Eight Mile Creek - source to mouth			
S-41	Jordan Creek - from and including Unnamed Tributary (T13N, R15E, Sec. 29) to mouth			
S-42	Jordan Creek - source to Unnamed Tributary (T13N, R15E, Sec. 29)			

PROGRAMMATIC EA FOR IMPLEMENTATION OF ACTION 149  
*U.S. Bureau of Reclamation*

Unit	Waters	Aquatic Life	Recreation	Other
S-43	West Fork Yankee Fork Creek - Lightning Creek to mouth			
S-44	Lightning Creek - source to mouth			
S-45	West Fork Yankee Fork Creek - source to Lightning Creek			
S-46	Cabin Creek - source to mouth			
S-47	Salmon River - Valley Creek to Yankee Fork Creek	COLD SS	PCR	DWS SRW
S-48	Basin Creek - East Basin Creek to mouth			
S-49	East Basin Creek - source to mouth			
S-50	Basin Creek - source to East Basin Creek			
S-51	Valley Creek - Trap Creek to mouth			
S-52	Stanley Creek - source to mouth			
S-53	Valley Creek - source to Trap Creek			
S-54	Trap Creek - Meadow Creek to mouth			
S-55	Trap Creek - source to Meadow Creek			
S-56	Meadow Creek - source to mouth			
S-57	Elk Creek - source to mouth			
S-58	Stanley Creek - source to mouth			
S-59	Crooked Creek - source to mouth			
S-60	Iron Creek - source to mouth			
S-61	Goat Creek - source to mouth			
S-62	Meadow Creek - source to mouth			
S-63	Salmon River - Redfish Lake Creek to Valley Creek	COLD SS	PCR	DWS SRW
S-64	Redfish Lake Creek - Redfish Lake to mouth			
S-65	Fishhook Creek - source to mouth			
S-66	Redfish Lake			
S-67	Redfish Lake Creek - source to Redfish Lake			
S-68	Salmon River - Unnamed Tributary (T19N, R13E, Sec. 25) to Redfish Lake Creek	COLD SS	PCR	DWS SRW
S-69	Decker Creek - Huckleberry Creek to mouth			
S-70	Decker Creek - source to Huckleberry Creek			
S-71	Huckleberry Creek - source to mouth			
S-72	Salmon River - Fisher Creek to Decker Creek	COLD SS	PCR	DWS SRW
S-73	Salmon River - Alturas Lake Creek to Fisher Creek	COLD SS	PCR	DWS SRW



PROGRAMMATIC EA FOR IMPLEMENTATION OF ACTION 149  
*U.S. Bureau of Reclamation*

Unit	Waters	Aquatic Life	Recreation	Other
S-74	Hell Roaring Creek - source to mouth			
S-75	Alturas Lake Creek - Alturas Lake to mouth			
S-76	Toxaway/Farley Lake - source to mouth			
S-77	Pettit Lake			
S-78	Alturas Lake			
S-79	Alturas Lake Creek - source to Alturas Lake			
S-80	Alpine Creek - source to mouth			
S-81	Salmon River - source to Alturas Lake Creek	COLD SS	PCR	DWS SRW
S-82	Beaver Creek - source to mouth			
S-83	Smiley Creek - source to mouth			
S-84	Frenchman Creek - source to mouth			
S-85	Pole Creek - source to mouth			
S-86	Champion Creek - source to mouth			
S-87	Fourth of July Creek - source to mouth			
S-88	Fisher Creek - source to mouth			
S-89	Williams Creek - source to mouth			
S-90	Gold Creek - source to mouth			
S-91	Little Casino Creek - source to mouth			
S-92	Big Casino Creek - source to mouth			
S-93	Rough Creek - source to mouth			
S-94	Warm Springs Creek - Swimm Creek to mouth			
S-95	Warm Springs Creek - Pigtail Creek to Swimm Creek			
S-96	Pigtail Creek - source to mouth			
S-97	Warm Springs Creek - source to Pigtail Creek			
S-98	Swimm Creek - source to mouth			
S-99	Slate Creek - source to mouth			
S-100	Holman Creek - source to mouth			
S-101	Sullivan Creek - source to mouth			
S-102	East Fork Salmon River - Herd Creek to mouth	COLD SS	PCR	DWS SRW
S-103	East Fork Salmon River - Germania Creek to Herd Creek	COLD SS	PCR	DWS SRW
S-104	Big Lake Creek - source to mouth			
S-105	Big Boulder Creek - source to mouth			
S-106	Little Boulder Creek - source to mouth			
S-107	Germania Creek - Chamberlain Creek to mouth			

PROGRAMMATIC EA FOR IMPLEMENTATION OF ACTION 149  
*U.S. Bureau of Reclamation*

Unit	Waters	Aquatic Life	Recreation	Other
S-108	Chamberlain Creek - source to mouth			
S-109	Germania Creek - source to Chamberlain Creek			
S-110	East Fork Salmon River - confluence of South and West Fork Salmon Rivers to Germania	COLD SS	PCR	DWS SRW
S-111	West Fork East Fork Salmon River - source to mouth			
S-112	South Fork East Fork Salmon River - source to mouth			
S-113	Ibex Creek - source to mouth			
S-114	West Pass Creek - source to mouth			
S-115	Bowery Creek - source to mouth			
S-116	Pine Creek - source to mouth			
S-117	McDonald Creek - source to mouth			
S-118	Herd Creek - confluence of West Fork Herd Creek and East Pass Creek to mouth			
S-119	East Pass Creek - source to mouth			
S-120	Taylor Creek - source to mouth			
S-121	West Fork Herd Creek - source to mouth			
S-122	East Fork Herd Creek - source to mouth			
S-123	Lake Creek - source to mouth			
S-124	Road Creek - Corral Basin Creek to mouth			
S-125	Road Creek - source to Corral Basin Creek			
S-126	Mosquito Creek - source to mouth			
S-127	Corral Basin Creek - source to mouth			
S-128	Horse Basin Creek - source to mouth			
S-129	Spar Canyon Creek - source to mouth			
S-130	Bradshaw Gulch - source to mouth			
S-131	Warm Spring Creek - Hole-in-Rock Creek to mouth			
S-132	Warm Spring Creek - source to Hole-in-Rock Creek			
S-133	Broken Wagon Creek - source to mouth			
S-134	Hole-in-Rock Creek - source to mouth			
S-135	Pennal Gulch - source to mouth			

- a. COLD Cold Water Communities. (4-5-00)
- b. SS - Salmonid Spawning. (4-5-00)
- c. SC - Seasonal Cold Water Communities. (4-5-00)
- d. WARM - Warm Water Communities. (4-5-00)
- e. MOD - Modified Communities. (4-5-00)
- f. PCR - Primary Contact Recreation. (4-5-00)
- g. SCR - Secondary Contact Recreation. (4-5-00)
- h. DWS - Domestic Water Supply. (4-5-00)
- i. SRW - Special Resource Water. (4-5-00)
- j. NONE - Use Unattainable. (4-5-00)

## **APPENDIX E**

### **ESA CONSULTATION/CORRESPONDENCE**

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**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

National Marine Fisheries Service  
Idaho Habitat Branch  
10215 W. Emerald, Suite 180  
Boise, Idaho 83704

April 16, 2002

Mr. Jack La Rocca  
Bureau of Reclamation  
Snake River Area Office  
214 Broadway Avenue  
Boise, Idaho 83702-7298

RE: SRA-6124  
ENV-1.10

Subject: Species List Verification Request For Fish Habitat Improvement Programmatic  
Environmental Assessment In The Lemhi, Upper Salmon, Little Salmon, And  
Middle Fork Clearwater Subbasins

Dear Mr. La Rocca:

This letter is to confirm the phone message left for you on April 15, 2002. The species list in the letter from Area Manager, Jerrold D. Gregg is incomplete. The Middle Fork Clearwater River contains listed Fall Chinook (T). Spring/summer chinook are not listed in the Middle Fork Clearwater River. Your species lists for the Lemhi, Upper Salmon and Little Salmon rivers are correct. This letter responds only to anadromous fish listings under NMFS's jurisdiction. The U.S. Fish and Wildlife Service should be contacted regarding species under its jurisdiction.

If you have any questions regarding this matter please contact Vince Kozakiewicz at the above address or at telephone number (208) 685-6905.

Sincerely,

Angele Somma  
Acting Branch Chief



OPTIONAL FORM NO. 10 (7-98)

**FAX TRANSMITTAL**

Page 2 of 2

To: <i>Jim Keany</i>	From: <i>Jack LaRocco</i>
Work Agency: <i>ENAW</i>	Phone: <i>334-9858</i>
Fax: <i>206-343-9809</i>	Fax: <i></i>
<small>FORM 1040, 01-31-2004 1099-101 GENERAL SERVICES ADMINISTRATION</small>	

SRA-6124  
ENV-1.10

April 8, 2002

Mr. Ken Troyer  
Acting Branch Chief  
National Marine Fisheries Service  
10215 W Emerald, Bldg C, Suite 180  
Boise ID 83764

**Subject: Species List Verification Request For Fish Habitat Improvement Programmatic Environmental Assessment In The Lemhi, Upper Salmon, Little Salmon, And Middle Fork Clearwater Subbasins**

Dear Mr. Troyer:

In compliance with Action 149 of the National Marine Fisheries Service (NMFS) Biological Opinion regarding off-site mitigation for the Operation of the Federal Columbia River Power System, December 21, 2000, the Bureau of Reclamation (Reclamation) will implement fish habitat improvement measures in the Lemhi, Upper Salmon, Little Salmon, and Middle Fork Clearwater subbasins (see enclosed map). Fish habitat improvement measures will include correction of passage barriers, stream flow deficiencies and unscreened irrigation diversions. Reclamation is preparing a programmatic Environmental Assessment (EA) concerning these habitat improvement measures.

To ensure correctness of Federally listed species to be addressed in the programmatic EA, we request that you review the following species identified by subbasin in the NMFS Biological Opinion:

**Subbasins:**

- Lemhi:** Steelhead ESU (T); Spring/summer chinook salmon ESU (T)
- Upper Salmon:** Steelhead ESU (T); Spring/summer chinook salmon ESU (T); Sockeye salmon ESU (E)
- Middle Fork Clearwater:** Steelhead ESU (T); Spring/summer chinook salmon ESU (T) *listed critical habitat with hatchery stock population*
- Little Salmon:** Steelhead ESU (T); Spring/summer chinook salmon ESU (T)

Please respond to verify whether these species lists are adequate or if species need to be added or removed from lists for any of the subbasins. Please direct your response to Jack La Rocco at the above address or at telephone number (208) 334-9858.

*Respectfully,*  
  
Jerald D. Goss  
Area Manager

Enclosure

JLaRocco:ea:4/5/02:X:\common\SRA1001\workfiles\Jack\04-04-02LetterNMPSFinal.wpd



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Snake River Basin Office  
1207 South Third Way, Room 342  
Boise, Idaho 83725

SEP 20 02

SEP 19 2002

SEP 19 2002

(copy) 2002/010 -  
Non-essential 500 1200 E  
500 600 P  
500 1200 J  
500 600 P  
624 60

Memorandum

To: Area Manager, Snake River Basin Office, Bureau of Reclamation, Boise, Idaho

From: *[Signature]* Supervisor, Snake River Basin Office, Boise, Idaho

Subject: Species List Verification - Fish Habitat Improvement Programmatic Environmental Assessment in the Lemhi, Upper Salmon, Little Salmon, and Middle Park Clearwater Subbasins  
File #1008.0141.02 SP #1-4-02-SF-729, 730, 731, 732

The U.S. Fish and Wildlife Service is writing to provide you with updated lists of threatened, endangered, proposed, and candidate species which may occur within the areas involved in the programmatic Environmental Assessment (Assessment) for fish habitat improvements. This includes the Lemhi, Upper Salmon, Little Salmon, and Middle Park Clearwater River Subbasins. You requested the update in a letter dated April 9, 2002, received by our office on April 15, 2002. There is a change to the previous list.

We are no longer asking you to consider the Idaho gnatcatcher (*Spizella arctica*) in any of the subbasins involved in the Assessment. This change is the result of an internal shift in the way the Service, specifically the Snake River Basin Office, addresses issues involving the Idaho gnatcatcher.

Thank you for your continued interest in endangered species conservation.

*[Handwritten Signature]*



BUREAU OF RECLAMATION, FISH HABITAT IMPROVEMENT  
PROGRAMMATIC ENVIRONMENTAL ASSESSMENT  
LEMHI RIVER SUBBASIN, IDAHO  
SPECIES LIST #1-4-02-SP-729

<u>LISTED SPECIES</u>	<u>COMMENTS</u>
Gray wolf ( <i>Canis lupus</i> )	XN - Experimental/Non-essential Population
Canada lynx ( <i>Lynx canadensis</i> )	LT
Bald eagle ( <i>Haliaeetus leucocephalus</i> )	LT
Bull trout ( <i>Salvelinus confluentus</i> )	LT
<u>PROPOSED SPECIES</u>	
None	
<u>CANDIDATE SPECIES</u>	
None	





BUREAU OF RECLAMATION, FISH HABITAT IMPROVEMENT  
PROGRAMMATIC ENVIRONMENTAL ASSESSMENT  
UPPER SALMON RIVER SUBBASIN, IDAHO  
SPECIES LIST #1-4-02-SP-734

<u>LISTED SPECIES</u>	<u>COMMENTS</u>
Gray wolf ( <i>Canis lupus</i> )	XN - Experimental/Non-essential Population
Canada lynx ( <i>Lynx canadensis</i> )	1(F)
Bald eagle ( <i>Haliaeetus leucocephalus</i> )	1(F)
Bull trout ( <i>Salvelinus confluentus</i> )	1(F)
<u>PROPOSED SPECIES</u>	
None	
<u>CANDIDATE SPECIES<sup>1</sup></u>	
Yellow-billed cuckoo ( <i>Coccyus americanus</i> )	C

<sup>1</sup> Candidate species have no protection under the Act, but are included for your early planning consideration. Candidate species could be proposed or listed during the project planning period, and would then be covered under Section 7 of the Act. The Service advises an evaluation of potential effects on candidate species that may occur in the project area.



BUREAU OF RECLAMATION, FEDERAL BUREAU OF SURVEY  
PROGRAMMATIC ENVIRONMENTAL ASSESSMENT  
LITTLE SALMON RIVER SUBBASIN, IDAHO  
SPECIES LIST #1-4/25/97/12

LISTED SPECIES

COMMENTS

One wolf (Canis lupus)

X1 - Experimental/Non-essential  
Population

Canada lynx (Lynx canadensis)

Belted eagle (Haliaeetus leucorhynchus)

Belted owl (Bubo virginianus)

PROPOSED SPECIES

None

CANDIDATE SPECIES

None

## **APPENDIX F**

### **TRIBAL COORDINATION**

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## **Letters to and Meetings with Tribes**

February 7, 2002	Letter to the Chairman of the Fort Hall Business Council requesting comments and offering to meet regarding the proposal
February 7, 2002	Letter to the Chairman of the Northwestern Band of the Shoshone Nation requesting comments and offering to meet regarding the proposal
February 7, 2002	Letter to the Chairman of the Nez Perce Tribal Executive Committee requesting comments and offering to meet regarding the proposal
February 7, 2002	Letter to the Chairman of the Burns Paiute General Council requesting comments and offering to meet regarding the proposal
May 22, 2002	Letter to the Chairman of the Burns Paiute General Council inviting comments about traditional cultural properties and sacred sites
May 22, 2002	Letter to the Chairman of the Nez Perce Tribal Executive Committee inviting comments about traditional cultural properties and sacred sites
May 22, 2002	Letter to the Chairman of Northwestern Band of the Shoshone Nation inviting comments about traditional cultural properties and sacred sites
May 22, 2002	Letter to the Chairman of the Shoshone-Paiute Tribal Council inviting comments about traditional cultural properties and sacred sites
May 22, 2002	Letter to the Chairman of the Fort Hall Business Council inviting comments about traditional cultural properties and sacred sites

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## **APPENDIX G**

### **EA DISTRIBUTION LIST**

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**State Govt./Agencies**

Mr. Jim Caswell  
Office of Species Conservation  
Statehouse Mail  
Boise ID 83720

Idaho Department of Environmental Quality  
Idaho Falls Regional Office  
Attn: Mr. Tom Herron  
900 N. Skyline Drive Suite B  
Idaho Falls ID 83402

Idaho Department of Environmental Quality  
Lewiston Regional Office  
Attn: Mr. Jim Bellatty  
1118 S Street  
Lewiston ID 83501

Idaho Department of Environmental Quality  
Regional Office  
Attn: Mr. Steve West  
1445 N. Orchard  
Boise ID 83706

Idaho Department of Water Resources  
Attn: Mr. Karl Dreher, Director  
1301 North Orchard  
Boise ID 83706

Idaho Dept. of Water Resources  
Western Regional Office  
2735 Airport Way  
Boise ID 83705

Idaho Dept. of Fish and Game  
Attn: Mr. Scott Grunder  
600 South Walnut  
PO Box 25  
Boise ID 83707

Idaho Dept of Fish and Game  
Attn: Mr. Tom Curet  
PO Box 1336  
Salmon ID 83467

Idaho Dept. of Fish and Game  
Attn: Ms. Kim Appeson  
555 Deinhard Lane  
McCall ID 83638

Idaho Department of Fish and Game  
Attn: Mr. Jim Lukens  
PO Box 1336  
Salmon ID 83467

Idaho Department of Fish and Game  
Attn: Cal Groen  
1540 Warner Ave  
Lewiston ID 83501

Idaho Dept of Fish And Game  
Attn: Jerome Hansen  
1540 Warner Ave  
Lewiston ID 83501

Idaho Assoc of Soil Conservation Dists Division II  
Attn: Mr. Kyle Hawley  
1180 Lewis Rd  
Moscow ID 83843

Lemhi Soil and Water Conservation Service  
Attn: Lynn Herbst  
PO Box 21  
Tendoy ID 83468

Custer Soil and Water Conservation District  
Attn: Mr. Ted O'Neil  
PO Box 305  
Challis ID 83226

Adams Soil and Water Conservation District  
Attn: Ferrell Crossley  
1684 Goodrich Creek Rd  
Council ID 83612

Idaho State Historic Preservation Office  
Attn: Mr. Kenneth Reid  
210 Main Street  
Boise ID 83702

Idaho State Department of Lands  
Attn: Mr. Jeremy Dedic  
555 Deinhard Lane  
McCall ID 83638

Idaho Department of Lands  
Attn: Mr. Bob McKnight  
10230 Hwy 12  
Orofino ID 83544

Idaho Soil Conservation Commission  
Attn: Janet Hohle  
220 E. 5<sup>th</sup> Street  
Moscow ID 83843

Idaho Water Resources Research Inst.  
Mr. Roy Mink, Director  
University of Idaho-Morrill Hall Rm 106  
Moscow ID 83843

**Local Govts/Agencies - County Commissioners**

Board of Adams County Commissioners  
PO Box 48  
Council ID 83612

Board of Custer County Commissioners  
PO Box 385  
Challis ID 83226

Board of Idaho County Commissioners  
320 W Main Room 5  
Grangeville ID 83530

Board of Lemhi County Commissioners  
206 Courthouse Drive  
Salmon ID 83467

**Federal Agencies**

Natural Resource Conservation Service  
PO Box 305  
Challis ID 83226

Natural Resource Conservation Service  
Attn: Mr. Mark Olson  
201 N. Church  
Salmon ID 83467

Natural Resource Conservation Service  
Attn: Mr. Richard Spencer  
203 N. "A" Street  
Grangeville ID 83530

Natural Resource Conservation Service  
Attn: Mr. Tom Yanke  
847 E. 9<sup>th</sup> Street  
Weiser ID 83672

U.S. Fish and Wildlife Service  
Mr. Robert Ruesink, Supervisor  
1387 S Vinnell Road Rm 368  
Boise ID 83709

U.S. Fish and Wildlife Service  
Attn: Ms Deb Mignogno  
4425 Burley Drive  
Chubbuck ID 83202

U.S. Fish and Wildlife Service  
Bill Miller - Complex Mgr  
Dworshak Hatchery  
Ahsaka ID 83520

Environmental Protection Agency  
Attn: Mr. Richard B. Parkin  
1200 Sixth Avenue, ECO-088  
Seattle WA 98101

NMFS-Hydropower Program  
Attn: Mr. Richie Graves

525 NE Oregon Street  
Portland OR 97232-2737

National Marine Fisheries Service  
Attn: Ms. Angela Somma  
10215 W Emerald Suite 180  
Boise ID 83704

National Marine Fisheries Service  
Attn: Mr. Dale Brege  
102 College  
Grangeville ID 83540

Northwest Power Planning Council  
PO Box 83720  
Boise ID 8372009962

Bonneville Power Administration  
905 NE 11<sup>th</sup> Ave  
Portland OR 97232-4169

Department of the Army  
Walla Walla District - Corps of Engineers  
201 N 3<sup>rd</sup> Street  
Walla Walla WA 99362

Department of the Army  
Idaho Falls District- Corps of Engineers  
Attn: Mr. Rob Brochu  
900 N Skyline Drive Suite A  
Idaho Falls ID 83402

Department of the Army  
Boise Regulatory Office  
304 North Eighth Street, Room 140  
Boise ID 83702-5820

Department of the Army  
Corps of Engineers  
Attn: Russ Davis - Wildlife Bio.  
Dworshak Dam  
Ahsaka ID 83520

Department of the Army  
Corps of Engineers  
Attn: Mr. Erik Peteson, Resource Manager  
Dworshak Dam  
Ahsaka ID 83520

Payette National Forest  
Office of the Supervisor  
800 W. Lakeside Ave  
McCall ID 83638

## **Federal Agencies – Continued**

New Meadows Ranger District  
Attn: Mr. Dale Olson  
PO Box “J”  
New Meadows ID 83654

Mr. Dave Burns  
Payette National Forest  
PO Box 1026  
McCall ID 83638

Nez Perce National Forest  
Mr. Scott Russell  
Route 2 Box 475  
Grangeville ID 83530

Nez Perce National Forest  
Attn: Phil Jahn - Staff Officer  
Rt 2 Box 475  
Grangeville ID 83530

U.S. Forest Service  
RR 2 Box 600  
Salmon ID 83467-9812

U.S. Forest Service  
Attn: Mr. George Matejko  
Hwy 93  
Salmon ID 83467

Mr. Nick Gerhardt  
Hydrologist  
Nez Perce National Forest  
Route 2 Box 475  
Grangeville ID 83530

Clearwater National Forest  
Attn: Larry Dawson  
12730 Hwy 12  
Orofino ID 83544

Clearwater National Forest  
Attn: Mr. John Keerseemaker  
12730 Hwy 12  
Orofino ID 83544

Bureau of Land Management  
Salmon Field Office  
Attn: Jude Trapani  
50 Hwy 935 S  
Salmon ID 83467

Bureau of Land Management  
Attn: Fritz Rennebaum  
Upper Columbia-Salmon/Clearwater Dist  
1808 N 3<sup>rd</sup> St  
Coeur d’ Alene ID 83814-3407

Bureau of Land Management  
Cottonwood Resource Area  
Attn: Craig Johnson  
Route 3 Box 181  
Cottonwood ID 83522-9498

## **Business, Organizations**

Potlatch Corporation  
Attn: Terry Cundy  
PO Box 1388  
Lewiston ID 83501-1388

Idaho Conservation League  
PO Box 844  
Boise ID 83701

Trout Unlimited  
Idaho Headquarters  
PO Box 893  
Lewiston ID 83501-0893

Idaho Water Users Association Inc  
Attn: Mr. Norman M. Semanko  
410 S Orchard # 144  
Boise ID 83705

Idaho Rivers United  
PO Box 633  
Boise ID 83701-0633

Idaho Steelhead & Salmon Unlimited  
PO Box 2294  
Boise ID 83701-2294

The Nature Conservancy  
Idaho Chapter  
2015 Sunrise Rim Rd  
Boise ID 83705-5157

Lemhi Model Watershed Project  
Attn: Mr. John Folsom  
206 Van Dreff Suite A  
Salmon ID 83467

## **Tribal Governments**

Mr. Terry Gibson, Chairman  
Shoshone-Paiute Tribal Council  
PO Box 219  
Owyhee NV 89832

Mr. John Meisinger  
CEO, Shoshone-Paiute Tribes  
PO Box 219  
Owyhee NV 89832

**Tribal Governments – Continued**

Mr. Blaine Edmo, Chairman  
Fort Hall Business Council  
PO Box 306  
Fort Hall ID 83203-0306

Mr. Chad Colter  
Director of Fish & Wildlife  
Shoshone-Bannock Tribes  
PO Box 306  
Fort Hall ID 83203-0306

Ms. Gwen T. Davis, Chairperson  
Northwestern Band of the Shoshone Nation  
10108 East Forest  
Brigham City UT 84302

Mr. Bruce Parry  
Executive Director  
Northwestern Band of the Shoshone Nation  
10108 East Forest  
Brigham City UT 84302

Mr. Samuel Penney, Chairman  
Nez Perce Tribal Executive Committee  
PO Box 305  
Lapwai ID 83540-0305

Mr. Justin Gould  
Chairman, Nez Perce Natural Resource Cmt  
Nez Perce Tribe  
PO Box 365  
Lapwai ID 83540-0305

Mr. Mike Penney  
Executive Director  
Nez Perce Tribe  
PO Box 365  
Lapwai ID 83540-0305

Director, Department of Fisheries  
Nez Perce Tribe  
PO Box 365  
Lapwai ID 83540-0305

Ira Jones  
Watershed Coordinator & Focus Coord.  
Nez Perce Tribe  
PO Box 365  
Lapwai ID 83540-0305

Mr. Dave Johnson  
Deputy Director, Department of Fisheries  
Nez Perce Tribe  
PO Box 365  
Lapwai ID 83540-0305

Nez Perce Tribe Fisheries  
Attn: Chad Fialco  
PO Box 365

Lapwai ID 83540

Mr. Albert Teeman, Chairman  
Burns Paiute General Council  
HC71, 100 Pasigo Street  
Burns OR 97720-9303

General Manager  
HC71, 100 Pasigo Street  
Burns OR 97720-9303

**Congressional Delegation**

Honorable C.L. “Butch” Otter  
Member, United States House of Representatives  
802 West Bannock Ste 101  
Boise ID 83702

Honorable Mike Simpson  
Member, U.S. House of Representatives  
802 West Bannock Ste 600  
Boise ID 83702

Honorable Larry E. Craig  
United States Senator  
304 North 8<sup>th</sup> Street Rm 149  
Boise ID 83702

Honorable Mike Crapo  
United States Senator  
304 North 8<sup>th</sup> Street Rm 338  
Boise ID 83702

**Libraries**

Centennial Library  
215 W. North  
Grangeville ID 83530

**APPENDIX H**

**PUBLIC COMMENTS AND  
RECLAMATION'S RESPONSES**

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229 East 8<sup>th</sup> Room 212-A  
 Boise, Idaho  
 83743

(208) 387-9007 ext. 3  
 Fax (208) 883-4215

Secretary  
 Steve Humphreys

Commission Members:

Tom DeWitt  
 Jerry Rice  
 Ed. Johnson  
 J. Marjorie Smith  
 Gary Anderson

Age Nelson  
 Jerry Nelson

December 30, 2002

Bureau of Reclamation  
 Snake River Area Office  
 214 Broadway Ave.  
 Boise, ID 83702 7918

Attention: Mr. Joe Spinaco

Dear Joe:

I have gone through the draft Programmatic Environmental Assessment and have a few comments that I will organize in this letter by page number. I hope my comments don't sound too nit-picky, but as you know, we have been through documents preceding here in the Clearwater so often that I tend to go into a certain mode when engaging in the exercise.

**Page 1-11** Paragraph beginning with "The Middle Fork Clearwater Subbasin was selected by former Governor Phil Batt" is inaccurate. Governor Batt selected the entire Clearwater River subbasin as a candidate for designation as a Focus Program in the Northwest Power Planning Council's Fish and Wildlife Program. The Middle Fork Clearwater River is one of the eight fourth field hydrologic unit codes (HUC) that comprise the Clearwater River. Furthermore, work in the Clearwater is not focused in the Middle Fork; in fact, no projects have been implemented in the Middle Fork under the Focus Program to date.

**Page 3-56** Section 3.5.1.3 Westlope Cutthroat Trout. Last paragraph in section relative to Middle Fork refers to Jun Ford Creek. Jun Ford Creek is not in the Middle Fork Clearwater River drainage but it is a tributary of the Clearwater River mainstem system. The confusion may stem from the 2001 draft Clearwater Subbasin Summary and the 2002 draft Clearwater Subbasin Assessment, in which both field HUCs with similar characteristics were clustered into Assessment Units for evaluation. The Middle Fork Clearwater River and Lolo Creek comprise one such assessment unit, although Jun Ford Creek is a tributary of neither. Finally at the very end of the paragraph the figure reference, "Figure 3-5-4" should read "Figure 3-5-3".

**Page 3-53** Section 3.5.1.6 Pacific Lamprey. Last paragraph, "For the Middle Fork Clearwater Subbasin, individuals are limited to larger, accessible tributaries such as Lolo Creek (BLM) 2000." This sentence is also misleading for the same reason described in the previous comment. Perhaps also contributing to the confusion is that

Review BOR Programmatic EA  
December 30, 2002

Page 3-53 continued The U.S. Fish and Wildlife Service draft Bull Trout Recovery Plan also describes one of the defined bull trout "core areas" as that containing Lolo Creek and the Middle Fork.

Page 3-66 Section 3.7 Threatened and Endangered Species Sockeye Salmon. The last paragraph that is specific to the Middle Fork says that it is listed as critical habitat. This seemed an odd designation so I checked Federal Register Volume 58, Number 247, December 28, 1993 "Designated Critical Habitats" and noted that there is nothing in the Clearwater River Subbasin listed as critical habitat for sockeye salmon.

PAGE 3-77 Section 3.7 Bull Trout. The Middle Fork Clearwater Subbasin section again references Lolo Creek as though it is part of the Middle Fork. See comments regarding pages 3-50 and 3-53. The USFWS draft Bull Trout Recovery Plan, Clearwater River Recovery Unit, Idaho reports that this species use the Middle Fork and tributaries for foraging, migration, rearing, and over-wintering habitat. The documents also reports that Clear Creek a tributary to the Middle Fork could potentially provide spawning and rearing habitat, although neither has been documented.

Bibliography The Clearwater subbasin summary is listed twice in the bibliography, once each under "CBFWA" and again under "NPPC". The Salmon subbasin summary is listed three times, once under "CBFWA" and twice under "NPPC". The citations for these documents I think might be more correctly shown as follows:

Northwest Power Planning Council. 2001. Draft Clearwater Subbasin Summary. 307p.

Northwest Power Planning Council. 2002. Final Draft Clearwater Subbasin Assessment. 443p.

Northwest Power Planning Council. 2001. Draft Salmon Subbasin Summary. 226p.





**Comment:** Page 3-66, Section 3.7, Threatened and Endangered Species Snakeye Salmon. Federal Register Volume 58, Number 247, does not indicate that Degraded Critical Habitat is located in the Clearwater River Subbasin.

**Response:** The text has been corrected.

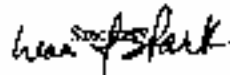
**Comment:** Page 3-67, Section 3.7, Bull Trout. Remove reference in Lolo Creek. The USFWS draft Bull Trout Recovery Plan, Clearwater River Recovery Unit, Idaho reports that this species use the Middle Fork and tributaries for foraging, migration, rearing, and over-wintering habitat. The document also reports that Clear Creek, a tributary to the Middle Fork, could potentially provide spawning and rearing habitat, although neither has been documented.

**Response:** The reference to Lolo Creek has been removed. The occurrence of bull trout in Clear Creek is displayed in Figure 3-5.5 - Selected Fish Species Distribution, Middle Fork Clearwater Subbasin. These data were obtained from the Idaho Department of Fish and Game, which were the most accurate data available. Reclamation has coordinated with USFWS to update these data, and the text has been edited to reflect this information.

**Comment:** Bibliography. Consistency is needed when referencing the NPPC Clearwater Subbasin Summary and the Clearwater Subbasin Summary.

**Response:** The Bibliography and references in the text have been edited to provide consistency.

Your comments will help us provide current and accurate information for this final stage of the Environmental Assessment process. If you have any questions regarding the response to your comments, please contact me at 208-334-9356.



Acting  
Jim Spinzola  
Activity Manager  
ESA Programs

cc: PN-6407 (Jensen-Luke)

WBR:ISpinzola:marel and J-J 00 204-334-9356 SRA-1201  
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DEPARTMENT OF THE ARMY  
WALLA WALLA DISTRICT CORPS OF ENGINEERS  
101 NORTH THIRD AVENUE  
WALLA WALLA, WASHINGTON 99071-1171

PLM/2003

Planning, Programs, and Project  
Management Division

DEC 8 0 2002

JUN 10 2003

Mr. Joe Spinakala  
Bureau of Reclamation  
Snake River Area Office  
214 Broadway Avenue  
Frank, Idaho 83701-1298

Dear Mr. Spinakala:


Thank you for sending the Programmatic Environmental Assessment for Implementing Fish Habitat Improvement Measures on Four Mountain Snake Province Sub-basins under Action 149 of the December 2000 National Marine Fisheries Service Federal Columbia River Power System Biological Opinion for our review and comment.

The Walla Walla District, Corps of Engineers (Corps), does not have any comments on the draft programmatic environmental assessment on fish habitat improvement activities, but we would like to make you aware of a project we are conducting along the Salmon River in Chelan, Idaho.

The Corps is currently in the study phase of an environmental restoration project along the Salmon River in Chelan, Idaho. A project of this type is authorized under Section 706 of the Flood Control Act of 1962. The project is the Salmon River, Section 206-Environmental Restoration Project. The project area encompasses the Round Valley reach of the Salmon River that is the 12 miles between the Highway 93 Bridge and Bezzo's Bridge in Chelan County near Chelan, Idaho. The goal of this project is to utilize bioengineering techniques to the extent practicable to reduce artificial bank erosion and restore natural channel function and aquatic and riparian biological processes. The Chelan Soil and Water Conservation District has agreed to be the sponsor and utilize Federal Power Administration funding. The sponsor, in support of the Chelan County Watershed Group, has demonstrated a strong community commitment toward the continued sustained ecological values of the Salmon River and its resources.

We appreciate the opportunity to review your draft programmatic environmental assessment addressing Action 149 of the Biological Opinion. Your stay contact Mr. Jeff Sedgewick at 509-527-7240 if you have any questions.

Sincerely,

  
Harry L. Cusack  
Major, Corps of Engineers  
Deputy District Commander



Help preserve the state's  
history through the identification,  
preservation, and interpretation  
of Idaho's historic heritage

Dr. K. Karaguthorne  
Governor's Liaison

State Capital  
Sagehen District

Idaho State  
100 West 10th, Room 302  
Boise, Idaho 83720-3020  
Phone: 208-333-8200  
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Fax: 208-333-8200

Idaho State  
100 West 10th, Room 302  
Boise, Idaho 83720-3020  
Phone: 208-333-8200  
Fax: 208-333-8200

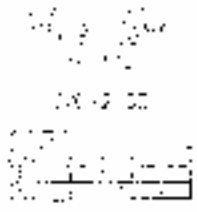
Idaho State  
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Boise, Idaho 83720-3020  
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Idaho State  
100 West 10th, Room 302  
Boise, Idaho 83720-3020  
Phone: 208-333-8200  
Fax: 208-333-8200

Mr. Jerrald D. Gregg  
Bureau of Reclamation  
Snake River Area Office  
214 Broadway Ave.  
Boise, Idaho 83702 7256



December 31 2002

1000  
Jerrald D. Gregg  
12/2

RE: SHPO Comments on the Draft Programmatic Environmental Assessment  
for Implementing Fish Habitat Improvement Measures in Four Mountain  
Snake Province Subbasins under Action 149 of the December 2000 National  
Monter Fisheries Service Federal Columbia River Power System Biological  
Opinion

Dear Mr. Gregg:

Thank you for requesting our views on the above referenced  
Programmatic Environmental Assessment (PEA). Our comments focus on  
Section 3.10 Cultural Resources.

Section 3.10.1.3, Historic Context. The second sentence of the first  
paragraph should be corrected to read: *Lewis and Clark traveled along the  
Lemhi and Clearwater rivers.*

Section 3.10.2.1: Regulatory Setting. To introduce language specific to the  
Section 106 Review process, the first sentence should begin by adding:  
*Important cultural resources, or historic properties, are given consideration.*

Similarly, the third and fourth sentences should be reworded as follows: *A  
step-by-step process for identifying, evaluating, and, if necessary, mitigating  
adverse effects on historic properties is provided in 16CFR500. Historic  
properties include cultural resources such as archaeological and historic  
sites, TCEPs, historic landscapes, and buildings, structures, and objects that  
are eligible for listing in the National Register of Historic Places.*

Since many of the projects will take place on private lands, a short paragraph  
should be added about Idaho's Protection of Graves Act. The 1984 State law  
requires notification to the director of the Idaho State Historical Society when  
human skeletal remains are discovered on any non-federal lands. A copy of  
the law is enclosed, but is also available on the Idaho State website  
[www.idahostate.gov](http://www.idahostate.gov) under Governmental Legislation/Idaho Statutes/Title  
27, Chapter 5.



The Idaho State Historical Society is an Equal Opportunity Employer.

Arnold U. Grigg  
 December 11, 2002  
 PAGE 2

**Section 3-10.2.2. High Probability Areas.** This paragraph should note that all projects must be reviewed under Section 106 regardless of a project's location relative to a high probability area. It should also clarify that, precisely speaking, these have not been enough survey completed in Idaho to confidently identify high, or low, probability areas.

**3.10.2.4: Proposed Action.** The paragraph describing the effects of screens on archaeological sites states that most sites where screens will be installed have been disturbed. Have these locations been surveyed, or is the Bureau of Reclamation just assuming this condition since the screens will be installed in agricultural fields? Unless the locations have been surveyed, this sentence should be revised or deleted. Routine agricultural activity does not usually disturb an archaeological site to the extent that it would no longer be eligible for the National Register. In fact, several of Idaho's most significant archaeological sites have been found in agricultural fields.

The last sentence under Cumulative Impacts is confusing. Site surveys are not always conducted under Section 106 Review, and the Reclamation's BMPs seem to be focused on the best management of natural, not cultural, resources. To address cumulative effects on historic properties, this sentence should be revised to state that *if wet project review under Section 106 of the NHPA would result in avoiding cumulative effects on historic properties.*

**3.10.3: Mitigation.** Once again, both paragraphs should reference Section 106 Review. The second paragraph describes the review process, but Section 106 Review should be specifically mentioned.

We feel that these changes will more accurately reflect how historic properties are considered and treated under the Federal preservation programs. If you have any questions, feel free to contact me at 208-134-3867.

Sincerely,

*Susan Pringle Grigg*  
 Susan Pringle Grigg  
 Deputy SHPO and  
 Compliance Coordinator

cc Ray Leibel, Bureau of Reclamation



**Comment:** 3.10.2.4 Proposed Action. The paragraph describing the effects of screens on archaeological sites states that most sites where screens will be installed have been disturbed. Have these locations been surveyed or is the Bureau of Reclamation.....

**Response:** The text has been edited to indicate that Section 106 Reviews will be conducted prior to earth-moving activity for specific projects. The wording that you provided for Cumulative Effects has been added to the text.

**Comment:** 3.10.3. Mitigation. Once again, both paragraphs should reference Section 106 Review. The second paragraph describes the review process, but Section 106 Review should be specifically mentioned.

**Response:** The text has been edited according to these recommendations.

Your comments will help us provide current and accurate information for this final stage of the Environmental Assessment process. If you have any questions regarding the response to your comments, please contact Joe Spinazola at 208 334-9856.

Sincerely,

**JERROLD D. GREGG**

Jerold D. Gregg  
Area Manager

cc: PN-6403 (Jansen-Lore)  
SRA-1203 (Spinazola), SRA-6116 (Leicht)

WBR:JSpinazola:carellano:3/3/03:208-334-9856:SRA-1203  
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## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

FAS CERN CASIO FIELD OFFICE - FV  
443 HULLY DR., SUITE A  
CHUBBUCK, IDAHO 83705  
Telephone: (208) 237-6977 Fax Number: (208) 237-8210

January 8, 2003

Joe Spinuzola  
United States Bureau of Reclamation  
Snake River Area Office  
214 Broadway Avenue  
Boise, Idaho 83702-7298

Subject: Draft Programmatic Environmental Assessment for Implementing Fish Habitat Measures under NMFS Federal Columbia Power System Biological Opinion

File: 1-4-03-L-0043

Dear Joe,

This is in response to your request for United States Fish and Wildlife Service (Service) comments on the draft Programmatic Environmental Assessment for Implementing Fish Habitat Measures under NMFS Federal Columbia Power System Biological Opinion (EA). The Service has reviewed the draft EA and has provided the comments below. The Service's comments are provided in accordance with section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) and the National Environmental Policy Act (NEPA).

#### General Comments

We were impressed with the quality of this draft. This is a well written document that contains good information needed in an environmental assessment. It is well organized and specific information is easily found in the text. The maps are easy to read and, with a few exceptions that are noted below, incorporate the latest scientific information available.

Some maps do not show existing Bull trout waters. Bull trout are known to exist in areas not shown on the distribution map for the Little Salmon Subbasin. These areas include at least one known spawning population (Harold Creek), as well as Boulder Creek, Yellow Jacket Creek, upper Hazard Creek, and other smaller headwater tributaries known to support bull trout populations.



The Service recently proposed critical habitat for bull trout in the sub-basins the EA covers. It would be prudent to include this proposed habitat in your discussions of each sub-basin. In addition, an assessment of the potential impacts of the described projects to proposed critical habitat would be useful.

#### Specific Comments

Chapter 3.6.2; page 3-61: It is stated that no impacts on migratory birds were anticipated. The consolidation of irrigation ditches may reduce the amount of habitat for waterfowl and other species (such as amphibians and hydro plants). These "artificial" wetlands may be important to some species and the Service believes these types of impacts should be assessed.

Chapter 4.1.1; page 4-1: This section describes the BOR's intentions with regard to the requirements of section 7 of the ESA. In paragraph 1, the BOR states that implementation of the proposed program may affect, but is not likely to adversely effect, the bull trout. However, later in paragraph 3, BOR states that it expects formal consultation may be required for specific projects.

If implementation of the program would result in a specific project causing adverse effects (either short-term or long-term effects) to the bull trout, then implementation of the proposed program is likely to adversely affect bull trout and BOR should request initiation of formal consultation with the FWS.

If the subject EA is to be considered the BOR's Biological Assessment for the purposes of consultation, the EA should include the following information required to request initiation of formal consultation with the FWS, as outlined in 50 CFR 402.14(c):

- 1) A description of the action to be considered;
- 2) A description of the specific area that may be affected by the action;
- 3) A description of any listed species or critical habitat that may be affected by the action;
- 4) A description of the manner in which the action may affect the bull trout (proposed critical habitat should also be considered) and an analysis of any cumulative effects; and
- 5) Any other relevant available information on the action, the affected listed species or critical habitat.

In addition, because critical habitat has been proposed for bull trout in the action area, the Service encourages the BOR to use this opportunity to initiate a conference with the Service. This would help avoid delays in project implementation as the conference can be used as a Biological Opinion (BO) once critical habitat designation is final and as long as no new information becomes available that contradicts the BO. The Service would like to work closely with the BOR to gather information needed for conference. Please contact Alison Beck-Haus for more information regarding this opportunity at 208-378-5384 or at [alison\\_beckhaus@fws.gov](mailto:alison_beckhaus@fws.gov).

Appendix B, page B-3: NMFS approved in-water work periods do not consider times sensitive to bull trout spawning. Nor does it state that bull trout will be surveyed for in the work area prior to project implementation. The Service would like to see a commitment to avoid in-stream work during critical periods of the bull trout life cycle (August 15 - September 30) and to survey for adults if project area is in bull trout waters.

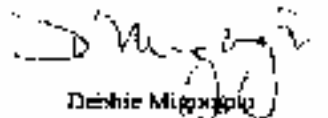
Appendix B, page B-6: Fish handling and transfer protocols: The actions described in this section may adversely affect bull trout and result in "take". If biologists employed by the Idaho Department of Fish and Game perform the capturing, removing, and/or otherwise handling the listed fish, they would be covered under their Section 6 cooperative agreement, for which the requirements of Section 7 of the ESA have already been met.

Appendix B, page B-7: The word "anadromous" does not include bull trout found in the areas described in the EA. Changing this to "salmonid" would be an acceptable revision. The Service would like to be contacted in the same manner described in 7.3 if bull trout are found in the project area.

Appendix B, page B-9: The Service would like to participate in these meetings.

Thank you for the opportunity to comment on this document and for including the Service in this process at an early stage. We hope that our comments are helpful and look forward to working with the BOR on these projects in the future. If any questions or clarifications are needed, please contact Chris Witt at 208-237-6975 X335 (or [chris\\_witt@fws.gov](mailto:chris_witt@fws.gov)).

Sincerely,



Debbie Mitchell  
Supervisor  
Eastern Idaho Field Office



NMFS-3422-70  
SRA-1203  
ENV-1.10

## United States Department of the Interior

### BUREAU OF RECLAMATION

Snake River Area Office  
214 Broadway Avenue  
Pocatello, Idaho 83402-7208

MAR 12 2003

#### MEMORANDUM

To: Ms. Debbie Muggugno, Supervisor, U.S. Fish and Wildlife Service,  
Eastern Idaho Field Office, 4425 Burley Drive, Chubbuck, ID 83202

From: Jermold D. Gregg  
Area Manager **JERFOLD D. GREGG**

Subject: Response to Comments on the Draft Programmatic Environmental Assessment  
for Implementing Fish Habitat Improvement Measures in Four Mountain Snake  
Province Subbasins under Action 149 of the December 2000 National Marine  
Fisheries Service Federal Columbia River Power System Biological Opinion

Thank you for your comments on the subject draft Programmatic EA. The following narrative provides responses to the comments in your January 8, 2003, letter. Your comments are listed, followed by Reclamation's response.

**Comment:** Bull trout are known to exist in areas not shown on the distribution map for the Little Salmon Subbasin.

**Response:** Early in 2002, Reclamation held several meetings with USFWS and National Marine Fisheries Service staff to introduce Reclamation's fish habitat program and to solicit ideas in developing Best Management Practices for these projects. In addition, Reclamation explained that they would be using Idaho Department of Fish and Wildlife's GIS database to indicate distribution of species listed or proposed under the Endangered Species Act. This database contains the most updated information available, and data are compiled from federal and state resource agencies. In addition, Reclamation requested updated information from USFWS and NMFS staff regarding distribution and spawning times for fish species under their jurisdiction in the four subbasins of interest. USFWS responded at that time that they did not have the resources to be able to provide any data.

Based on a recent phone conversation with Kendra Wolruck of USFWS, who compiled the Proposed Critical Habitat data for the Little Salmon Subbasin, it does not appear that this updated information is available in a digital format. The text in the bull trout section has been edited to reflect the distribution information provided in your comment letter.

**Comment:** The EA does not indicate the recently proposed critical habitat for bull trout in the subbasins.

**Response:** USFWS proposed bull trout critical habitat on November 29, 2002, after the issuance of the EA in October 2002. The proposed critical habitat supplied on the USFWS in GIS format will be displayed in the Final EA, along with a discussion regarding any effects to this habitat.

**Comment:** Chapter 3.6.2, page 3-61. It is stated that no impacts on migratory birds were anticipated. The consolidation of irrigation ditches may reduce the amount of habitat for waterfowl and other species (such as amphibians and hydric plants). These "artificial" wetlands may be important to some species, and the Service believes these types of impacts should be addressed.

**Response:** Irrigation ditches are maintained for the efficient conveyance of water and are regularly cleaned, mowed, or burned to remove vegetation and sediment. While the ditches themselves provide marginal habitat at best, there may be some circumstances where seepage from unlined ditches supports adjacent wetland habitat. In such cases, consolidation of drainage ditches may reduce the amount of artificial/created wetlands while benefiting the flow regime of the stream. The narrative in this section has been edited to acknowledge the potential effect of drainage canal consolidation. Reclamation would coordinate site-specific project implementation with USFWS and would adhere to the Best Management Practices, including site restoration, included in the appendix of the EA.

**Comment:** Chapter 4.1.1, page 4-1. The section describes the BOR's intentions with regard to the requirements of Section 7 of the ESA. In paragraph 1 the BOR states that implementation of the proposed program may affect, but is not likely to adversely effect, the bull trout. However, later in paragraph 3, BOR states that it expects formal consultation may be required for specific projects. If implementation of the program would result in a specific project causing adverse effects (either short-term or long-term effects) to the bull trout, then implementation of the proposed program is likely to adversely affect bull trout and BOR should request initiation of formal consultation with USFWS.

**Response:** The language of this section has been altered to better reflect Reclamation's commitment to coordinate with FWS regarding the implementation of habitat improvement measures.

**Comment:** If the subject EA is to be considered the BOR's Biological Assessment for the purposes of consultation, the EA should include the following information required to request initiation of formal consultation with the USFWS, as outlined in 50 CFR 402.14(c):

- 1) A description of the action to be considered;
- 2) A description of the specific area that may be affected by the action;
- 3) A description of any listed species or critical habitat that may be affected by the action;
- 4) A description of the manner in which the action may affect the bull trout (proposed critical habitat should also be considered) and an analysis of any cumulative effects; and
- 5) any other relevant available information on the action, the affect listed species or critical habitat.

**Response:** The Programmatic EA has been revised to meet only NEPA obligations and no longer is intended to also serve as a BA. Paragraph 2 in section 3.7.1 on p. 3-62 was revised to be consistent with this change.

Comment: Because critical habitat has been proposed for bull trout in the action area, USFWS encourages Reclamation to use this opportunity to initiate a conference with USFWS.

Response: Reclamation will coordinate with USFWS staff to integrate conferencing on proposed critical habitat with consultation on ESA-listed species.

Comment: Appendix B; Page B-3. NMFS approved in-water periods do not consider times sensitive to bull trout spawning. Nor does it state that bull trout will be surveyed for in the work area prior to project implementation. USFWS would like to see a commitment to avoid in-stream work during critical periods of the bull trout life cycle (August 15-September 30) and to survey for adults if a project area is in bull trout waters.

Response: The text has been edited to include provisions for avoiding stream work from August 15 through September 30, and for conducting surveys for adults in bull trout waters for in-stream construction projects.

Comment: Appendix B; page B-6. Fish handling protocols. The actions described in this section may adversely affect bull trout and result in "take". If biologists employed by the Idaho Department of Fish and Game perform the capturing, removing, and/or otherwise handling the listed fish, they would be covered under their Section 6 cooperative agreement, for which the requirements of Section 7 of the ESA have already been met.

Response: Reclamation will coordinate fish handling activities among USFWS, NMFS, and IDFG.

Comment: Appendix B, page B-7. the word "anadromous" does not include bull trout found in the areas described in the EA. Changing this to "salmonid" would be an acceptable revision. The Service would like to be contacted in the same manner described in 7.3 if bull trout are found in the project area.

Response: The text was edited as recommended.

Comment: Appendix B, page B-9. USFWS would like to participate in these meetings.

Response: The text has been edited to include USFWS in annual meetings.

Your comments will help us provide current and accurate information for this final stage of the Environmental Assessment process. If you have any questions regarding the response to your comments, please contact Joe Spinazola at 208-334-9856.

bc: PN-6403 (Jansen-Lutz), SRA-1203 (Spinazola)

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**Nez Perce Tribe**  
**Department of Fisheries**  
**Watershed Division**

P.O. Box 761  
Ligand, ID 83340  
Phone: (208) 943-0144 • Fax: (208) 843-8193



January 9, 2002

Mr. Joe Spinazola  
U.S. Department of the Interior  
Bureau of Reclamation  
Snake River Area Office  
214 Broadway Avenue  
Boise, ID 83702-7298  
Via email: [jspinazola@brl.usbr.gov](mailto:jspinazola@brl.usbr.gov)  
Via telefax: (208) 334-9562

*Re: Comments on BOR's Programmatic EA for Implementing RPA 149*

Mr. Spinazola,

Thank you for granting the Nez Perce Tribe (the Tribe) an extension for submitting comments to the U.S. Bureau of Reclamation (BOR or the Bureau) on the draft "Programmatic Environmental Assessment for Implementing Fish Habitat Improvement Measures in Four Mountain Snake Province Subbasins under Action 149 of the December 2000 National Marine Fisheries Service Federal Columbia River Power System Biological Opinion" (hereinafter referred to as the Programmatic EA).

The Tribe is governed by the Nez Perce Tribal Executive Committee (NPTEC), which governs or co-manages over 13.5 million acres across Idaho, Oregon, and Washington, including the Mountain Snake Province Subbasins covered by this Programmatic EA. The Tribe has extensive treaty rights throughout the province, and has worked for decades to manage and improve treaty resources, especially fish and wildlife habitat through the Nez Perce Tribe Department of Fisheries Resources Management (NPTDFRM).

The Watershed Division of the NPTDFRM is focused on protecting, restoring, and enhancing watersheds and all treaty resources throughout Nez Perce Treaty Territory by using a holistic approach, which encompasses entire watersheds—ridge-top to ridge-top—encompassing all cultural aspects, and helping to restore healthy, productive ecosystems. To guide these efforts, the Nez Perce Tribe, through its own fisheries programs and the Columbia River Inter-Tribal Fish Commission (CRITFC), has developed and implemented a comprehensive salmon recovery plan. See CRITFC, *Wya-Kam, Ush-Jah, Wa-Kish, Wti, Spirit of the Salmon: The Columbia River Anadromous Fish Restoration Plan of the Nez Perce, Umatilla, Wampanoag and Yakama Tribes* (1996). The Watershed Division commends the Bureau on its efforts to integrate environmental analysis for implementing its legal responsibilities under RPA 149 of the 2000 FCRPS EOP. However, the Watershed Division does have some concerns and concerns to

rise with the Bureau in order to create adequate analysis of the impacts to treaty rights and trust resources of the Nez Perce Tribe.

**1. Selection of Subbasins—Tribal Consultation**

We understand that the Bureau has selected the Lemhi, Upper Salmon, Middle Fork Clearwater, and Little Salmon Subbasins for implementing the actions covered by this Programmatic EA. Each of these subbasins is located within the territory of the Nez Perce Tribe. The Middle Fork Clearwater is within the boundaries of the Nez Perce Reservation, and the other three subbasins are within the ceded territory of the Nez Perce Tribe, as defined by the Treaty of 1855, 12 Stat. 957, and the Indian Claims Commission. In Article II of this treaty, the Nez Perce Tribe explicitly reserved to themselves "the right to fish at all usual and accustomed places in common with the citizens of the Territory." This right includes the area identified by the Programmatic EA.

The Watershed Division Commends the Bureau for including several sections in the Programmatic EA that pertain to tribal concerns with respect to cultural resources (3.10), sacred sites (3.11), Indian trust assets (3.12), environmental justice (2.15), and tribal consultation (4.2).

**2. Cultural Resources, Sacred Sites & Indian Trust Assets**

Sections 3.10-3.12 discuss potential effects to cultural resources, sacred sites, and Indian trust assets. The Tribe has not had an adequate opportunity to evaluate the potential effects to these resources from the Bureau's implementation of RPA 149. The Bureau should identify a process for further consultation and coordination with the Nez Perce Tribe for handling such important issues. The unique character of these resources and the controversy that could erupt from disturbance of such resources indicate that this is a major federal action with significant environmental impacts which likely requires a more detailed analysis by conducting environmental impact statement (EIS). Specifically, the Programmatic EA contains no discussion of cumulative impacts to fishing and harvesting rights retained by the Nez Perce Tribe. We encourage you to conduct an EIS on the potential impacts to these resources or to explain how the EA satisfies such analysis.

**b. Tribal Consultation**

We feel that tribal consultation and coordination should have been greater than is reflected in section 4.2. We feel that the Bureau should have consulted with the Nez Perce Tribe before selecting which subbasins to implement RPA 149. Executive Order 13175 directs federal agencies to consult and coordinate with tribal governments. To this end, the Nez Perce Tribe encloses a copy of "Nez Perce Tribe Guidance on Government-to-Government Consultation" for your consideration on how to conduct future consultation with the Tribe for Bureau projects that affect the Tribe's treaty rights and trust resources. Had the Bureau consulted with the Tribe, different subbasins may have been chosen or better coordinate the Bureau's actions with the Tribe's resources work. Further, we request that the Bureau include an evaluation of the consistency of its efforts with *Wyo. Kes. Ch. 10, Art. 10, § 101*. We invite you to so consult with us for future selection of subbasins and the types of actions that can be implemented.

## 2. Constraints to Purpose and Need—Legal Authority

The Bureau states that the scope of this Programmatic EA will be constrained by certain limitations, including, but not limited to: (1) "Reclamation will be responsible for activities and actions that only occur within the stream"; (2) "Reclamation will address issues/needs that have been caused by irrigation activities"; and, (3) all actions will take place on non-public land." Programmatic EA at 1-2 (emphasis added). We disagree with these constraints and urge the Bureau to seek additional legal authorities if needed.

### a. Activities Within the Stream

The EA contains no discussion as to why the Bureau takes the position that its activities are limited only to activities inside the streambed. Surely the Bureau has legal authority to restore riparian and associated habitat impacted by Bureau actions. We urge the Bureau to interpret its legal authority to allow riparian and upland habitat restoration activities under the Programmatic EA. If the Bureau does not agree that it has adequate legal authority to conduct riparian and upland habitat restoration, then the Bureau should explain this in the EA. Further, the Bureau should enter into multi-agency agreements or seek additional legal authority from Congress to allow such restoration activities.

### b. Issues and Needs Caused by Irrigation Activities

We agree that the Bureau is responsible for mitigating past and present habitat degradation caused by irrigation. However, the Programmatic EA does not adequately explain why this is a constraint for the Bureau's implementation of RPA 149. RPA 149 is one of many actions that NOAA Fisheries required of federal agencies under the 2000 FCRPS BiOp. The BiOp requires the federal agencies to conduct these actions in order to offset and mitigate for the impacts to threatened and endangered salmonids that are caused by the operation of the Federal Columbia River Power System, not just from irrigation.

We urge the Bureau to interpret its legal authority to implement RPA 149 of the 2000 FCRPS BiOp in a way that addresses issues and needs caused by the operation of the FCRPS, not just from irrigation. The Bureau operates two projects on the FCRPS: Grand Coulee Dam and Hungry Horse Dam. The authorizing legislation for both of these projects expressly states that the project purposes include irrigation, flood control, and power production. Furthermore, the administrator of Bonaireville Power Authority dispenses of power generated at reclamation projects in accordance with Reclamation laws, including but not limited to Executive Order 8526, 5 Fed. Reg. 3390; and Secretarial Order 2860, 27 Fed. Reg. 597. In 1945, Congress passed the Rivers and Harbors Act 1945, 59 Stat. 10, authorizing "such dams as are necessary" for the purpose of navigation, irrigation, then surplus power was to be transmitted to the Secretary of the Interior for disposition in accordance with the laws governing the disposition of power for the Bonaireville project. The Northwest Power Act mandated that federal agency consider fish and wildlife on an equal basis with project operations.

The Bureau's legal authority is at least this broad; habitat restoration activities should not be constrained to only irrigation. But rather, the Bureau's legal authority is at least as strong as the



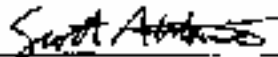
project purposes (flood control, irrigation, and power), and further bolstered by the Northwest Power Act for fish and wildlife purposes. Therefore, the Bureau's authority to implement RPA 149 should not be interpreted to be restricted to only irrigation. If the Bureau does not agree that it has adequate legal authority to mitigate for operation of the FCRPS beyond irrigation, then the Bureau should explain this in the EA. Further, the Bureau should enter into multi-agency agreements or seek additional legal authority from Congress to allow such restoration activities.

c. All Actions on Non-Public Land.

The EA does not adequately explain this purported constraint—please explain.

Again, we commend the Bureau for its efforts to integrate an analysis of the effects to tribal issues and trust assets in the Programmatic EA for implementing its legal responsibilities under RPA 149 of the 2001 FCRPS BICp. We hope you will take these comments under full consideration; we look forward to receiving the final EA upon its completion, or an indication from the Bureau that an EIS will be prepared. Thank you for granting the Tribe an extension for submitting these comments to the Bureau.

Sincerely,

  
/s/ Scott Anderson  
Mr. Jones, Director, Watershed Division

Background: Nez Perce Tribe Guidance on Government-to-Government Consultation

cc: Jerrold D. Dwyg  
Rick Eicherweil  
Dave Johnson

## NEZ PERCE TRIBE

## GUIDANCE ON GOVERNMENT-TO-GOVERNMENT CONSULTATION

As a fiduciary, the United States and all its agencies owe a trust duty to the Nez Perce Tribe and other federally-recognized tribes. See *United States v. Cherokee Nation of Oklahoma*, 430 U.S. 706, 707 (1977); *United States v. Mitchell*, 463 U.S. 206, 225 (1983); *Seminole Nation v. United States*, 316 U.S. 286, 296-97 (1942). This trust relationship has been described as "one of the primary cornerstones of Indian law." Felix Cohen, *Handbook of Federal Indian Law* 221 (1982), and has been compared to one existing under the common law of trusts, with the United States as trustee, the tribes as beneficiaries, and the property and natural resources managed by the United States as the trust corpus. See, e.g., *Mitchell*, 463 U.S. at 225.

The United States' trust obligation includes a substantive duty to consult with a tribe in decision-making to avoid adverse impacts on treaty resources and a duty to protect tribal treaty-reserved rights "and the resources on which those rights depend." *Klamath Tribes v. U.S.*, 24 Ind. Law Rep. 3017, 3020 (D.Ct. 1996). The duty ensures that the United States conduct meaningful consultation "in advance with the decision maker or with intermediaries with their authority to present tribal views to the . . . decision maker." *Lower Brule Sioux Tribe v. Derr*, 911 F.Supp 395, 401 (D. S.D. 1993).

Further, Executive Order 13175 provides that each "agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." According to the President's April 29, 1994 memorandum regarding Government-to-Government Relations with Native American Tribal Governments, federal agencies "shall assess the impacts of Federal Government plans, projects, programs, and activities on tribal trust resources and assure that Tribal government rights and concerns are considered during the development of such plans, projects, programs, and activities." As a result, Federal agencies must proactively protect tribal interests, including those associated with tribal culture, religion, subsistence, and commerce. Meaningful consultation with the Nez Perce Tribe is a vital component of this process.

Consultation is the formal process of negotiation, cooperation, and mutual decision-making between two sovereigns: the Nez Perce Tribe (NPT) and the United States (including all federal agencies). Consultation is the process that ultimately leads to the development of a decision, not just a process or a means to an end. The most important component of consultation is the ultimate decision.

Consultation does not mean notifying the Tribe that an action will occur, requesting written comments on that prospective action, and then proceeding with the action. In this scenario the decision is not affected. "Dear Interested Party" letters are not consultation. It is equally important to understand that as a sovereign government, a Tribe may elect not to conduct government-to-government consultation or may decide to limit the scope of their consultation as needed.

**Objectives of Consultation:**

1. Assure that the Nez Perce Tribal Executive Committee (NPTEC) understands the technical and legal issues necessary to make an informed policy decision;
2. Assure federal compliance with treaty and trust obligations, as well as other applicable federal laws and policies impacting tribal culture, religion, subsistence, and commerce;
3. Improve policy-level decision-making of both NPTEC and federal government;
4. Bilateral decision-making among two sovereigns (to limit potential of resources);
5. Ensure the protection of NPT resources, culture, religion, and economy;
6. Ensure compliance with tribal laws and policies;
7. Develop and achieve mutual decisions through a complete understanding of technical and legal issues; and
8. Improve the integrity of federal-tribal decisions.

**Process of Consultation:**

Consultation works through both technical and policy-level meetings to differentiate between technical and policy issues allowing for proper technical level staff consultation and then policy-level consultation for those issues that remain unresolved or for those issues that are clearly only resolvable at the policy level. Consultation is the process of coming to common understanding of the technical and legal issues that affect, or are affected by, a decision and then using this understanding to formulate a decision.

Meaningful consultation requires that federal agencies and Tribes truly understand respective roles and have a basic understanding of the legal underpinnings of the government-to-government relationship, including the responsibility of the federal government under the Trust doctrine. In addition, federal agencies will benefit from some understanding of tribal culture, perspectives, world view, and treaty rights. Tribal governments must understand the policy decision-making authority of the federal agency. Tribal governments must understand the tribal politics of the federal agency decision that consultation will affect.

In these examples, it is critical to note that a tribal government cannot understand the policies of the federal agency decision without personal communications. Similarly, the federal agency cannot understand the Tribe's issues and concerns unless agency staff meet with the Tribe to discuss those issues and concerns. Without communication, consultation is meaningless and a mutual decision is difficult or impossible.

The consultation process works like this:

1. Federal agency contacts NPTFC or its appointed position (essential to policy of all subsequent project proposal or to conduct of activity that may or may not impact a tribal resource).
2. NPTFC responds back that this issue is important and that it would like to initiate consultation. NPTFC requests federal agency technical experts meet with tribal technical staff (or NPTFC requests a policy level meeting).
3. Consultation has been initiated. Technical staff meet. Technical and legal issues are discussed, the result is that tribal staff understand the proposal and federal agency staff understand at technical level why this proposed activity is of concern to the Tribe. This allows respective technical staff to brief respective policy entities and to provide informed opinions and recommendations.
4. Tribal staff briefs NPTFC. Consultation is initiated between policy-level decision-makers from both the Tribe and the federal agency.
5. Additional meetings are held, if necessary, leading up to the decision.
6. Federal agency and Tribe formulate a decision. Assurances are made that the decision is consistent with federal laws and tribal laws and policies. This means the decision is consistent with applicable natural and cultural resource laws and policies. For the NPT specifically, it means the decision protects the resources in which the NPT has specific treaty-secured rights and enables continued practice of tribal religious, cultural, and subsistence activities.

These steps may be adapted to suit the needs of the decision-making process leading to the formulation of a decision.



United States Department of the Interior

BUREAU OF RECLAMATION

Snake River Area Office  
114 South 4th Avenue  
Pocatello, Idaho 83401-2098

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SRA-1203-SRA-1134  
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Mr. In Jones  
Director, Watershed Division  
Department of Fisheries  
Nez Perce Tribe  
P.O. Box 765  
Jupia, ID 83540

Subject: Response to Comments on the Draft Programmatic Environmental Assessment for Implementing Fish Habitat Improvement Measures on Four Mountain Snake Province Subbasins Under Action 149 of the December 2000 National Marine Fisheries Service Federal Columbia River Power System Biological Opinion

Dear Mr. Jones:

Thank you for your comments on the subject draft Programmatic Environmental Assessment. The following narrative provides responses to the comments in your February 9, 2003, letter signed by Sean Ahlhouse on your behalf. Your comments are listed, followed by Bureau of Reclamation's response.

- 1. Selection of Subbasins - Tribal Consultation.
- 2. Cultural Resources, Sacred Sites, and Indian Trust Assets.

**Concern:** The Bureau should identify a process for further consultation and coordination with the Nez Perce Tribe for handling such important issues . . . Specifically, the Programmatic EA contains no discussion of cumulative impacts to fishing and trapping rights retained by the Nez Perce Tribe. We encourage you to conduct an EIS on the potential impacts to these resources or to explain how the EA satisfies such analysis.

**Response:** Reclamation would like to work with the Nez Perce Tribe to identify a coordination process for handling cultural resources, sacred sites, and Indian Trust Assets issues related to implementation of flow, screen, and barrier projects outlined in the EA. Because the programmatic EA described these types of projects in a general way, Reclamation expects that potentially there will be a wide range of circumstances that could occur with individual site-specific projects. It makes sense to coordinate now so that Reclamation can comply with Nez Perce provisions on these issues. I would very much appreciate being provided the name of one contact person with whom I could coordinate Tribal concerns.

Under Section 3.12 Indian Trust Assets, there is a discussion of the Nez Perce Tribe, a brief history of the treaties with the Federal government, and a discussion of the Nez Perce Tribe rights concerning hunting, fishing, and gathering. Further, in Section 3.12.2 Environmental Consequences, there is a discussion on the effects to these rights that includes the statement, "The rights of the tribes to hunt and/or fish that may exist would not be altered by any of the alternatives." The Cumulative Impacts section notes that there would be no impacts to ITAs. Specific language addressing no impacts to traditional hunting, fishing, or gathering sites has been added to the Cumulative Impact discussion.

Reclamation staff and managers debated whether preparation of an EA or an EIS was appropriate to meet NEPA obligations. Action 149 recognizes that existing barrier, screen, and flow deficiencies inhibit the survival and recovery of ESA-listed anadromous fish. Correction of these deficiencies by Reclamation on non-public lands is expected to provide a net long-term benefit to ESA-listed fish without imposing undue hardship to existing landowners. Furthermore, Reclamation plans to work with a wide range of other interested parties to implement Action 149 projects while meeting tribal obligations and other responsibilities under existing Federal and State laws. Considering that implementation of Action 149 projects were expected to provide benefits to ESA-listed fish and were not expected to adversely affect any other interested parties, Reclamation managers concluded that an EA was the appropriate NEPA document. Under NEPA, an EIS is not required unless there is the potential for significant impacts. Thus, an EA meets the standards set forth by NEPA, and Reclamation concluded that an EIS was not necessary.

#### **b. Tribal Consultation.**

Comment: We feel that tribal consultation and coordination should have been greater than is reflected in section 4.2. We feel that the Bureau should have consulted with the Nez Perce Tribe before selecting which subbasins to implement RPA 149.

Response: Thank you for including a copy of the "Nez Perce Tribe Guidance on Government-to-Government Consultation." I was not aware of this particular guidance and am sure to find it a useful reference as we work together in the future. Upon review of the material in the guidance, I consider myself at the technical level in relation to the Nez Perce Tribe. Consequently, I checked with Reclamation management and inquired whether consultation took place with the Nez Perce Tribe. I was informed that the Federal Caucus (National Marine Fisheries Service, U.S. Fish and Wildlife Service, Reclamation, BPA, Corps of Engineers, U.S. Forest Service, Environmental Protection Agency, Bureau of Land Management, and Bureau of Indian Affairs) developed and released the Conceptual Recovery Plan (A1-H paper) in 1999. After 15 public hearings and consultation with Columbia River Basin Tribes, including the Nez Perce Tribe, the Federal Caucus released the Draft Basin-Wide Salmon Recovery Strategy. Consideration of written and verbal comments on that draft culminated with release of the Final Basinwide Salmon Recovery Strategy in December, 2000. Reclamation managers consider that Government-to-Government consultation took place during the Federal Caucus process to develop the Final Basinwide Salmon Recovery Strategy.

Information in these documents was incorporated into various parts of the NMFS Biological Opinion that includes Action 149. Sixteen priority subbasins were identified in volume 2 of the Final Basinwide Salmon Recovery Strategy. These subbasins are those that Reclamation ultimately was assigned in the Biological Opinion. There is disagreement in many circles about the current designation of subbasins. I will forward your offer to consult on selection of future subbasins and types of actions that can be implemented to Reclamation management.

Thank you for alerting me to *W'y\_Kam\_Ush\_Mi\_Wa\_Kish\_Wit*. I downloaded the document that includes the subbasin plans from the CRITFC web site. I plan to read it soon and identify areas that overlap between it and the projects we are able to implement in our Action 149 program.

#### **Constraints to Purpose and Need-Legal Authority.**

##### **a. Activities within the stream.**

Comment: The EA contains no discussion as to why the Bureau takes the position that its activities are limited only to activities inside the streambed. Surely the Bureau has legal authority to restore riparian and associated habitat impacted by Bureau actions.

Response: The Purpose and Need of the EA addresses the implementation of Action 149 as prescribed under the NMFS BiOp for the FCRPS. Action 149 provides specific guidelines and parameters under which Reclamation must complete its work. Reclamation does not have discretion under Action 149 to address habitat issues other than flow, barrier, and screening issues.

##### **b. Issues and needs caused by irrigation activities.**

Comment: We urge the Bureau to interpret its legal authority to implement RPA 149 of the 2000 FCRPS BiOp in a way that addresses issues and needs caused by the operation of the FCRPS, not just from irrigation.

Response: While Reclamation is aware of the complexities of issues affecting salmon in the subbasins, its scope in addressing salmon restoration in the assigned subbasins is limited to the provisions of Action 149 of the NMFS BiOp for the FCRPS. The Purpose and Need section of the EA describes the specifics of Action 149 and the parameters under which Reclamation must work.

There are 198 other Action items in the RPA that concern flood control, hydropower generation, hatcheries, research, monitoring, and evaluation, and other elements that when implemented in combination are intended to avoid jeopardy of ESA-listed anadromous fish. This EA only is intended to meet NEPA obligations for implementation of Action 149.

##### **c. All actions on non-public land.**

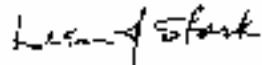
Comment: The EA does not adequately explain this purported constraint – please explain.

Response: Following publication of the FCRPS BiOp, NMFS coordinated with the Corps of Engineers, Bonneville Power Administration, and Reclamation regarding implementation parameters. One of the outcomes of this coordination was that Reclamation would implement Action 149 on private lands because: (1) federal land management agencies (BLM and USFS) are coordinating with NMFS regarding ESA matters on the public land they administer; (2) members of the Federal Caucus (which includes the regulatory agencies, action agencies, BLM, USFS, BIA, and EPA) have committed to helping meet BiOp objectives when implementing their program objectives whenever possible; (3) States have the lead for ESA issues on state-owned land; (4) Reclamation does not operate any projects (facilities) in any of the assigned subbasins under Action 149 and administers no land; and (5) Reclamation has a history of working successfully with landowners on water resources issues related to irrigated agriculture.

Your comments will help us provide current and accurate information for this final stage of the Environmental Assessment process. If you have any questions regarding the response to your comments please contact me at 208 334-9856.

We will provide you copies of the final EA as you requested. I look forward to working with you in the future. Please don't hesitate to contact me if you would like to talk about Action 149 or related matters.

Sincerely,



For  
Joe Spinazola  
Activity Manager  
ESA Programs

cc: Justin Gould, Chairman, Nez Perce Tribe Natural Resources Committee, Nez Perce Tribe  
Dave Johnson, Manager, Department of Fisheries, Nez Perce Tribe  
Scott Althouse, Watershed Division, Department of Fisheries, Nez Perce Tribe  
Mark Lichstadt, Tribal Attorney, Nez Perce Tribe  
Arnold D. Gregg, Snake River Area Manager, Bureau of Reclamation

cc: Duane Mechem, Regional Solicitors Office, Portland  
PN-1030 (Peddie), PN-3030 (Rigby), PN-6403 (Jansen-Lutz), SRA-1100 (Tafaya)

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United States  
Department of  
Agriculture

Federal  
Service

National Forest System

Box 1, Box 471  
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Date: January 3, 2003

Mr. Jon Spinazola  
US Dept of the Interior  
Snake River Area Office  
214 Broadway Avenue  
Boise, ID 83702-7298

Dear Mr. Spinazola:

Thank you for the opportunity to review the Draft Programmatic Environmental Assessment for implementing fish habitat improvement measures in four Mountain Snake Province Subbasins under Action 149 of the December 2000 National Marine Fisheries Service Federal Columbia River Power System Biological Opinion.

Attached are some review comments. Please contact Nick Garbark of this office if you have if you have any questions or need additional information.

Sincerely,

*Phil Fahm*  
FOR  
PHIL FAHM

Heritage, Watershed, Ecology and Biology Staff Officer

Enclosure



Review Comments  
Draft Programmatic Environmental Assessment  
Nick Gerhardt - 1/2/03

Page 1-17 - A Comprehensive State Water Plan was recently completed for the Little Salmon River subbasin. This could be referenced in the section on related activities.

Page 3-19 - Irrigation diversions are much more significant in the Little Salmon River subbasin than in the Middle Fork Clearwater River subbasin. If possible, these should be identified and mapped in the final assessment.

Page 3-31 - The Rapid River Fish Hatchery is mislocated on this map. It is located just above the mouth of Shingle Creek, rather than near the county boundary as shown.

Page 3-40 - To the best of our knowledge, golden trout have never been introduced into the Middle Fork Clearwater River subbasin.

Page 3-50 - Jim Ford Creek is not located in the Middle Fork Clearwater River subbasin.

Page 3-52 - Lolo Creek is not located in the Middle Fork Clearwater River subbasin.

Page 6-2 - The reference to R. Gerhardt should be N. Gerhardt. He is a hydrologist, rather than a biologist.

Page G-3 - "Gerhardt" is misspelled and the discipline should be hydrology, rather than fisheries.



Comment: Page 3-40. To the best of our knowledge, golden trout have never been introduced into the Middle Fork Clearwater subbasin.

Response: Golden trout have been removed in the matrix from the Middle Fork Clearwater subbasin.

Comment: Page 3-50. Jim Ford Creek is not located in the Middle Fork Clearwater River subbasin.

Response: This reference has been removed.

Comment: Page 3-52. Lolo Creek is not located in the Middle Fork Clearwater River subbasin.

Response: This reference has been removed.

Comment: Page 6-2. The reference to R. Gerhardt should be N. Gerhardt. He is a hydrologist, rather than a biologist.

Response: This text has been edited according to your recommendation.

Comment: Page G-3. Gerhardt is misspelled and the discipline should be hydrology rather than fisheries.

Response: The text has been edited according to your recommendation.

Your comments will help us provide current and accurate information for this final stage of the Environmental Assessment process. If you have any questions regarding the response to your comments, please contact me at 208-334-9856.

Sincerely,



Joe Spinazola  
Activity Manager  
ESA Programs

Acting

cc: PN-6403 (Jansen-Lute)

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