

DETERMINATION AND FINDING

Columbia River Flood Control Operation at Libby Dam 2008 Operating Year

Northwestern Division, U.S. Army Corps of Engineers
December 2007

This document represents my decision to continue implementation of VARQ flood control (VARQ FC) operation at Libby Dam in Montana in operating year 2008 in strict accordance with the VARQ Operating Procedures. My decision relies on the factors addressed in the “Determination and Finding Columbia River Flood Control Operation at Libby Dam 2007 Operating Year” signed January 5, 2007, which is incorporated by reference. My decision is for the 2008 operating year only and does not reflect a long-term decision or direction for future operations. Continued implementation of VARQ FC at Libby Dam in 2008 is supported by the 2002 EA, FONSI and Decision Document for interim implementation, as well as the most recent analysis concerning the system and local impacts of VARQ flood control operations.

Background: As one of the fourteen Federal Columbia River Power System Projects (FCRPS), Libby Dam is operated by the U.S. Army Corps of Engineers (Corps) for system and local flood control, hydropower generation, navigation, recreation, fish and wildlife, and in a manner consistent with Libby Dam’s enabling legislation, applicable Executive Orders, Federal and state statutes, regulations and treaties. These include, but not limited to the Columbia River Treaty, the International Joint Commission (IJC) 1938 Order on Kootenay Lake, and responsibilities pursuant to the Endangered Species Act (ESA), the National Environmental Policy Act (NEPA), the Clean Water Act (CWA), and the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act).

The Corps, Bureau of Reclamation (Reclamation), and the Bonneville Power Administration (BPA) (collectively the Action Agencies) have consulted with both the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS or NOAA Fisheries) to address the effects of the operation of FCRPS projects, including Libby Dam, on ESA listed species and their designated critical habitat. Beginning in 2003, the Corps began implementing VARQ FC at Libby Dam on an interim basis in response to Biological Opinions (BiOps) prepared by the USFWS and NMFS. The intent of VARQ FC is to more closely mimic the natural hydrograph by increasing the likelihood of refill, storing more water to provide flows for ESA listed fish (Kootenai River white sturgeon and salmon and steelhead ESUs in the Columbia River Basin), while still providing flood damage reduction.

The Corps in cooperation with Reclamation prepared a final Environmental Impact Statement on the Upper Columbia Alternative Flood Control and Fish Operations Final

EIS (Final UCEIS), which was released for public review and comment in April 2006. The UCEIS examines alternatives for providing reservoir and flow conditions at and below Libby and Hungry Horse dams for resident and anadromous fish listed as threatened or endangered under the ESA, consistent with authorized project purposes, including maintaining the current level of flood control benefits. The Final UCEIS identified a preferred alternative which includes adoption of VARQ Flood Control Operating Procedures and provides for sturgeon, bull trout, and salmon flow operations consistent with the ESA biological opinions addressing the needs of these species.

In May and June of 2006 a flood event affected areas downstream of Libby Dam. Subsequently the Corps prepared an After Action Report (AAR) addressing issues and concerns arising from this event. The AAR contained a "Lessons Learned" section in which the Corps identified issues requiring additional follow-up and/or analysis. This included a commitment by the Corps to review and clarify the VARQ Flood Control Operating Procedures. The Corps proceeded with this analysis delaying a final decision on the adoption of an UCEIS alternative pending completion of this review. The review has been completed and confirmed that the clarified VARQ Flood Control Operating Procedures are sound.

The Corps is addressing available information to prepare a long-term decision on operation using the VARQ FC procedure, but has not yet completed that process. Therefore, the Corps is making this decision for the 2008 operating year to cover flood control operations until a long-term decision is made. The Corps plans to prepare a Record of Decision (ROD) for the Upper Columbia Alternative Flood Control and Fish Operations EIS in early 2008.

2008 Flood Control Operation: The Corps is responsible for the operation and maintenance of Libby Dam for multiple uses consistent with project authorizations and applicable laws and regulations. Operating decisions must be based on engineering expertise, operating experience, public health and safety, and the economic, social, and environmental needs of the Pacific Northwest and the Nation. Therefore, I am making this decision for the 2008 flood control operation at Libby Dam based on the best information available at this time, including consideration of local and system flood damage reduction, ability to provide flows for threatened and endangered species, the findings in the AAR, and applicable laws and regulations. One of my primary considerations has been minimizing the risk to human life and safety while meeting other project purposes and responsibilities.

Under this VARQ flood control operation, fish flows will be provided to the extent possible with available water to meet the Corps' ESA responsibilities under the current BiOps from USFWS and NMFS. For 2008, the Corps plans to continue operating Libby Dam to the extent practicable, to avoid exceeding Kootenai River flood stage elevation 1764 feet msl, as measured at Bonners Ferry, and will provide flows for sturgeon at a level based on the tiers in the USFWS 2006 BiOp.

FINDING

I have reviewed and considered the foregoing information, the AAR and Lessons Learned, as well as Libby Dam's authorizing legislation, the Corps' tribal trust responsibilities, Columbia River Treaty requirements and compliance with all applicable environmental laws. I have advised the Kootenai Tribe of Idaho, the Confederated Salish and Kootenai Tribes, the states of Montana and Idaho, local governments, of this planned action and will continue coordination as part of the on-going implementation.

It is my determination that implementing VARQ flood control operation according to the operating procedures, and providing fish flows at Libby Dam in 2008 is in the public interest. This decision is based on analysis demonstrating that strict application of VARQ Operating Procedures provides for flood damage reduction and allows the Corps to meet its ESA responsibilities to provide reservoir operations that are beneficial to fish.

I acknowledge, and it is important for the public to understand this as well, that in any given year there is a risk of high water events, including flooding and spill, when operating in accordance with either Standard or VARQ flood control procedures. To address this risk, the Corps will implement VARQ FC with strict adherence to the operating procedures as was done in 2007, and will not consider or implement any deviations from the VARQ operating procedures in 2008 that would cause the reservoir to be above the rule curve or reduce outflow below the prescribed VARQ outflow, except for short-term deviations when necessary to protect human life and safety and/or to comply with the IJC Order. The likelihood of achieving reservoir refill, and consequently the volume available for summer fish flows, will be reduced compared to some previous years because of strict adherence to VARQ operating procedures. I find this to be an acceptable tradeoff given the importance of flood damage reduction.

DATE: 21 Dec 2007.



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