

factsheet

April 2008

Federal agencies announce proposed agreements to benefit fish

The Bonneville Power Administration is proposing to enter into agreements with the other action agencies (the U.S. Army Corps of Engineers and the Bureau of Reclamation), four tribes and two states for 10-year commitments to benefit fish, particularly for Columbia River Basin salmon and steelhead stocks.

The negotiating parties have reviewed and approved the proposed memorandums of agreement (MOAs) for public release so that stakeholders can review the commitments that BPA is proposing.

Purpose of the proposed agreements

The goal of these agreements is to:

- produce substantial biological benefits for Columbia Basin fish that will help the federal agencies meet their statutory obligations;
- acknowledge the tribes' and states' substantive role as managers of the fish resource as well as our trust and treaty relationships with the tribes;
- provide greater long-term certainty for fish restoration funding and increased certainty for Northwest ratepayers through reduced litigation risk;



Under this new partnership, on-the-ground activities like the streambank restoration project pictured here help provide spawning and rearing habitat for salmon.

- support and enhance the actions contemplated in NOAA Fisheries' draft biological opinions (BiOps) for listed salmon and steelhead and improve their prospects for recovery;
- foster a partnership toward our mutual goal of protecting and recovering fish and wildlife; and
- provide for the parties to work together to assure the agencies' responsibilities under the Endangered Species Act (ESA), Northwest Power Act and Clean Water Act are satisfied, changing the focus to implementation instead of litigation.



Parties to the proposed agreements

There are three proposed MOAs:

- 1) MOA with treaty fishing tribes and action agencies
 - Confederated Tribes of the Umatilla Indian Reservation
 - Confederated Tribes of the Warm Springs Reservation
 - Confederated Tribes and Bands of the Yakama Nation
 - Columbia River Inter-Tribal Fish Commission
- 2) MOA with Confederated Tribes of the Colville Indian Reservation and action agencies.
- 3) MOA with the state of Idaho and the action agencies.
- 4) MOA with the state of Montana and the action agencies.

Contents of the proposed agreements

The agreements are 10-year action agency commitments for projects to benefit fish affected by the Federal Columbia River Power System (FCRPS). The focus is on ESA-listed anadromous fish and actions to support the FCRPS BiOp. There are also other actions for non-listed fish (especially lamprey) and other listed species.

New projects would be reviewed through the Northwest Power Act processes, with adjustments made as agreed to between the parties. Projects must obtain appropriate land use permits and regulatory clearances, including National Environmental Policy Act (NEPA) and ESA clearances, as appropriate.

The MOAs include provisions to negotiate replacement habitat projects if science or regulatory reviews identify issues with implementation.

The projects include:

- **Habitat restoration:** These projects would improve spawning and rearing habitat to increase productivity of specific population groups of salmon and steelhead. Focus areas include the

The biological opinion

In August 2007, the action agencies submitted to NOAA Fisheries a proposed action for operating the federal hydro system, addressing the needs of Columbia River Basin salmon and steelhead listed under the Endangered Species Act. The proposal was the result of two-year-long collaboration among the action agencies, NOAA Fisheries and Northwest states and tribes. This unprecedented sovereign collaboration was ordered by the court following litigation on NOAA Fisheries' 2004 Federal Columbia River Power System Biological Opinion (FCRPS BiOp).

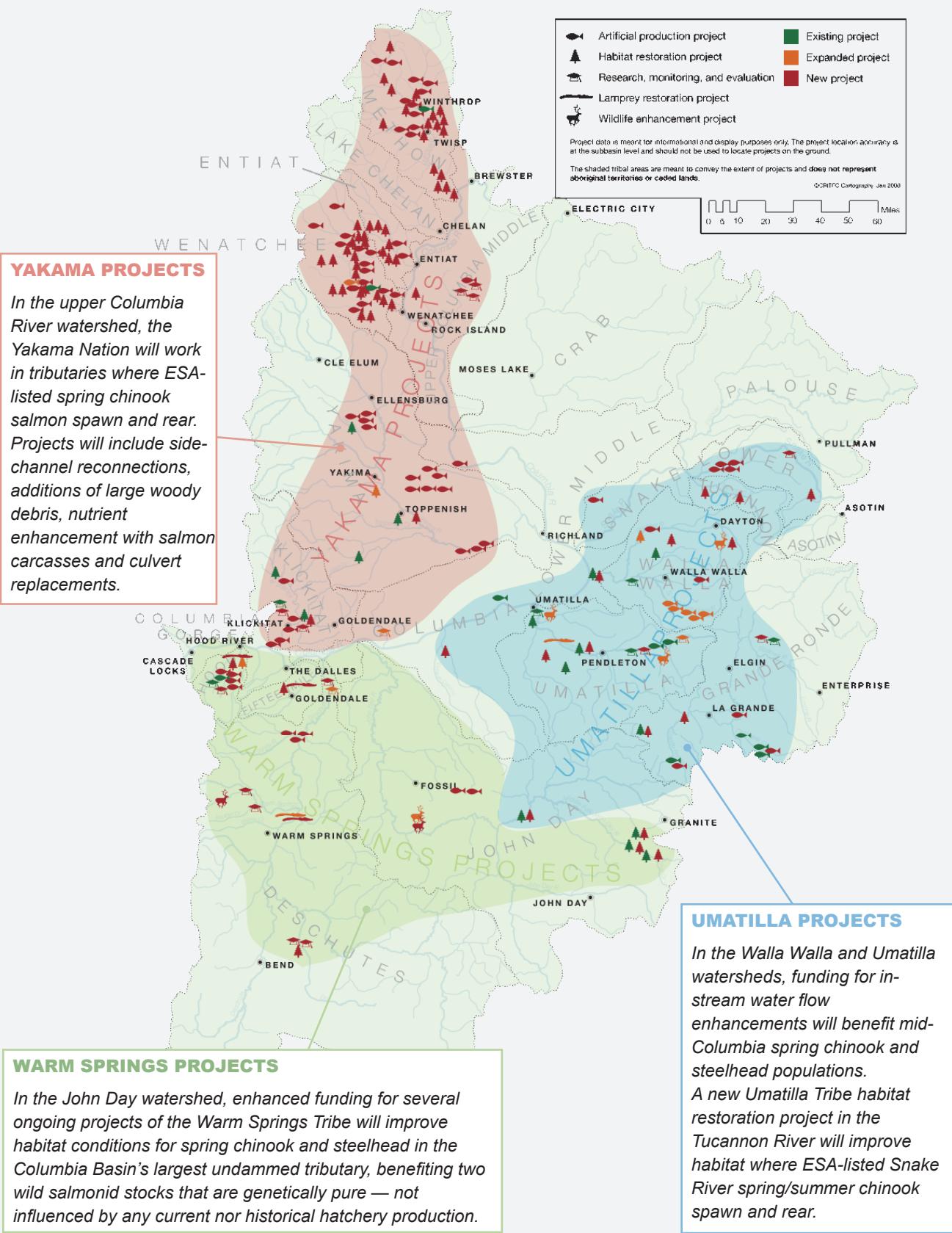
This collaboration laid the foundation for this new partnership in the MOAs.

NOAA Fisheries released a draft FCRPS BiOp Oct. 31, 2007. It will produce a final FCRPS BiOp in response to the court on May 5, 2008.

upper Columbia tributaries and the Grande Ronde, Umatilla and Walla Walla rivers. In Idaho, the State would purchase water in priority areas, returning water to streams that dry up during important spawning months for ESA listed Snake River species.

- **Hatchery actions:** These include capital improvements to existing hatcheries and other enhancements. Improvements would be subject to NOAA ESA permitting, to ensure that such actions would not impede and, where possible, would contribute to recovery of ESA-listed fish. The Colville Tribes will use hatchery fish to reintroduce endangered Upper Columbia spring chinook back into the Okanogan River.
- **Hydro actions:** The hydro provisions in the proposed agreements are based on biological results. They acknowledge the performance standards for the hydro system described in the draft FCRPS BiOp and address some particular strategies, including spring and summer spill management.

Projects made possible by the MOAs with treaty fishing tribes



In addition, the proposed agreements contain provisions for:

- **Partnership/legal forbearance:** The agreements would promote a collaborative relationship between the parties for 10 years. The parties agree that the federal government's requirements under the ESA, the Clean Water Act and the Northwest Power Act are satisfied for 10 years and that they would work together to support these agreements in all venues. The agreements would specifically resolve, for these parties, ESA litigation pending before Judge Redden in the U.S. District Court.
- **Withdrawal:** The parties have agreed to informal dispute resolution procedures and have the ability to withdraw from the agreement in certain circumstances, after discussion. BPA would continue to fund its BiOp commitments in the event of withdrawal.

Funding for the proposed agreements

The action agencies agree to fund projects for the approximate amounts listed below:

- **BPA:** \$930 million over a 10-year period.
- **Corps:** Commitment to a suite of actions to be funded from congressionally appropriated monies, including approximately \$50 million over 10 years for improvements for lamprey.
- **Reclamation:** Commitment to a suite of actions to be funded from congressionally appropriated monies.

Public review process

Consistent with our strategic objectives for open processes and decision making, BPA is providing a public comment period before entering into the agreements so customers and stakeholders may review the commitments BPA is proposing.

We are asking for public comment on the proposal to enter into these agreements as negotiated. In addition,

NEPA documentation

BPA believes that entering into these agreements is consistent with BPA's programmatic Fish and Wildlife Implementation Plan Environmental Impact Statement (FWIP EIS) prepared pursuant to NEPA. BPA's Record of Decision (ROD) for the FWIP EIS adopted a comprehensive policy guiding the implementation and funding of the agency's fish and wildlife mitigation and recovery efforts.

For NEPA purposes, if following a public comment period, BPA determines that the decision to enter into these agreements is consistent with its FWIP EIS, BPA would prepare a ROD, tiered to the FWIP EIS and ROD. Many of the projects identified in the MOAs may be within the scope of the FWIP EIS and ROD. Others may require additional environmental analyses and documentation before implementation. Prior to funding new on-the-ground activities that are not within the scope of the FWIP EIS and ROD, BPA would separately evaluate the environmental effects of the individual project proposals. All proposed actions would still be required to obtain appropriate legal coverage, permits or approvals.

we are asking for public comment on any potential environmental effects of these proposed agreements.

How to comment

Comments will be accepted until close of business April 23, 2008. Comments may be submitted online at www.bpa.gov/comment; by mail to Bonneville Power Administration, Public Affairs Office – DKE-7, P.O. Box 14428, Portland, OR 97293-4428; or faxed to (503) 230-3285. All comments will be posted in their entirety, including the author's name and any affiliation, on BPA's Web site at www.bpa.gov/applications/publiccomments/OpenCommentListing.aspx.

For more information and to view the proposed agreements go to www.salmonrecovery.gov.