



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
525 NE Oregon Street  
PORTLAND, OREGON 97232-2737

November 26, 2003

To: Technical Contacts for States and Tribes in the Columbia Basin

cc: Northwest Power and Conservation Council  
Regional Coordination Group  
Statewide Subbasin Coordinators

From: Robert G. Walton, NMFS

RE: Request for Information, including Non-Federal Salmon Habitat Actions in the Columbia Basin

As you know, NOAA Fisheries is revising the 2000 NOAA FCRPS Biological Opinion (BiOp) pursuant to Judge James Redden's June 2, 2003 order. The revised BiOp is due to be completed by June 2004.

In revising the BiOp, NMFS will consider relevant beneficial and adverse federal and non-federal actions that meet the proper legal criteria. For non-federal actions we will consider those actions that have been completed since 2000 or future actions that are "reasonably certain to occur." In the revised BiOp, we will consider completed actions as part of the environmental baseline and "reasonably certain" future actions in the cumulative effects analysis section. I have attached additional information on this effort.

NMFS is aware that the deadline for completion of current subbasin planning efforts is May 28, 2004 and that many state, tribal and local resources have been assigned to this task. We have placed a high priority on completing the revised BiOp by June 2, 2004, but we recognize the importance of the subbasin planning efforts and intend to revise the BiOp without causing a duplication of effort or disrupting the ongoing subbasin planning work. We therefore seek to compile the information necessary to complete the BiOp revision from available sources in the most efficient manner possible, making use of information and products that already exist or are already being prepared, wherever possible.

The attached "FCRPS BiOp Remand, NOAA Habitat Information Plan" provides further clarification about the information we are requesting. We would like to receive this information by January 9, 2004. We will be contacting you or the key individuals you suggest in the near future to begin discussions on what data is available and how best to transmit it to NMFS. For additional information, please contact Katherine Cheney, Federal Caucus Outreach Coordinator (503) 230-3473, or for technical habitat issues, Dr. Kim Kratz, NMFS, (503) 231-2155.



## **FCRPS BiOp Remand NMFS Habitat Information Plan**

### **1. What revisions of the 2000 FCRPS Biological Opinion (BiOp) are underway in response to the remand?**

- NMFS will revise its inventory of federal habitat actions to include those that have completed consultation under Section 7 of the Endangered Species Act between 2000 and June, 2004, including future actions. This inventory will be part of the environmental baseline in the BiOp (see attached definition).
- NMFS will also revise its inventory of non-federal habitat actions to include those that have been completed between 2000 and June, 2004 or that are reasonably certain to occur. Completed actions will be part of the environmental baseline, while reasonably certain future actions will be part of the BiOp cumulative effects analysis (see attached definition).

### **2. What information is NOAA requesting from non-federal parties?**

- We are asking for information about beneficial and adverse actions in salmon habitat in the Columbia Basin.
- From States, Tribes, and State subbasin planning coordinators we are requesting information regarding non-federal and non-federally funded actions:
  - Completed actions that have been implemented since 2000.
  - Future actions which are “reasonably certain to occur” (see attached definition).

As part of this effort we intend to utilize information already submitted to NMFS by December for the Pacific Coast Salmon Restoration Funds (PCSRF) Report to Congress. **Therefore projects that have already been submitted to NOAA for PCSRF *DO NOT NEED* to be submitted again in response to this request for the BiOp remand effort.**

As explained in the attached memo, NMFS intends to make use of information and products that already exist or are already being prepared, wherever possible, in order to avoid duplication of effort and disruption of important related processes such as subbasin planning. We therefore suggest that the States and Tribes can provide the requested information to NMFS by submitting the draft assessments, inventories and management plans prepared by the subbasin planning efforts, to the extent they are available in time to be used in revising the BiOp.

- If there is interest and the information is available, NMFS also requests additional relevant information that the States, Tribes, subbasin planning groups and others chose to provide regarding non-federal and non-federally funded habitat actions. Of particular value would be submission of relevant habitat data sets that include adverse and/or beneficial actions, sorted by ESU and subbasin, by category of action, and by source of funding. Specifically, draft subbasin Assessments being prepared by subbasin planning groups would be helpful to NMFS. In order to facilitate the efficient submission and effective use of this information, we suggest that technical contacts call Dr. Kim Kratz at NMFS (503) 231-2155.
- In order to avoid confusion, duplication of effort, we recommend that the technical contacts coordinate with the States, Northwest Power and Conservation Council and others to provide this information to NMFS in the most efficient manner possible.
- NMFS will maintain ongoing collaboration and communication with States, Tribes and subbasin planning groups as analysis of information submitted proceeds.
- From Federal agencies, we will solicit, in a separate memo, information regarding federal and federally funded or permitted actions:
  - Completed actions that have been implemented since 2000. These include the Inventories from subbasin planning.
  - Future actions that have completed section 7 consultation by June 2004.

**3. What is the due date for submission of information?**

- January 9, 2004.

**4. Who is NMFS asking to help obtain this information?**

- On September 24, 2003, NMFS sent a letter to states and tribes requesting the names of technical contacts from each of the parties to assist in this effort. We are sending this request to those contacts and others. In the accompanying memo and this document, NMFS is asking the technical contacts from the states and tribes; in coordination with others as appropriate, to assist in submitting this information.
- NMFS will assemble information on adverse and beneficial actions by ESU and subbasin; by categories of actions; and by source of funding.

NMFS will work closely with the technical contacts from states and tribes to discuss the most efficient way to compile and evaluate the information.

**5. How will NMFS use this information?**

- NMFS will use this information to revise the environmental baseline and cumulative effects portions of the FCRPS BiOp. In doing so, we will compile information for adverse and beneficial actions by ESU and subbasin; by categories of actions; and by source of funding.
- This information will be used in the updated jeopardy analysis related to habitat actions. In addition to the jeopardy analysis, this information will be relevant to any reconsideration of the Basinwide Salmon Recovery Strategy.
- By June 2004, NMFS must revise its jeopardy analysis to focus on a revised action area (see attached definition) and to include all of the above information that pertains to such action area. In addition, NOAA must also assess the relevance and effect of such habitat actions to the listed salmonid ESUs.

NMFS shall work with Regional and State staff from the Northwest Power and Conservation Council to ensure that NMFS work is as beneficial to subbasin planning as possible, while minimizing the interruptions or disruption to the subbasin planning process.

## **Definitions:**

### **Environmental Baseline:**

“The environmental baseline includes the past and present impacts of all Federal, State, or private actions and other human activities in the action area, the anticipated impacts of all proposed Federal projects in the action area that have already undergone formal or early section 7 consultation, and the impact of State or private actions which are contemporaneous with the consultation in process.” 50 C.F.R. §402.02

### **Cumulative Effects:**

“Cumulative effects are those effects of future State or private activities, not involving Federal activities that are reasonably certain to occur within the action area of the Federal action subject to consultation.” 50 C.F.R. §402.02

### **Action Area**

“‘Action area’ means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.”

### **Reasonably Certain to Occur**

“Indicators of actions "reasonably certain to occur" may include, but are not limited to: approval of the action by State, tribal or local agencies or governments (e.g., permits, grants); indications by State, tribal or local agencies or governments that granting authority for the action is imminent; project sponsors' assurance the action will proceed; obligation of venture capital; or initiation of contracts. The more State, tribal or local administrative discretion remaining to be exercised before a proposed non-Federal action can proceed, the less there is a reasonable certainty the project will be authorized.” FWS/NMFS Section 7 Consultation Handbook (1998) at page 4-31.

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