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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

NATIONAL WILDLIFE FEDERATION, *et al.*

Plaintiffs,

v.

NATIONAL MARINE FISHERIES
SERVICE, *et al.*

Defendants.

Civil No. 01-640-RE

**FEDERAL DEFENDANTS'
NOTICE OF FILING FIRST
SPILL IMPLEMENTATION
REPORT**

**FED. DEFS.' NOTICE OF FILING FIRST SPILL
IMPLEMENTATION REPORT**

In its December 29, 2005 Opinion and Order granting in part and denying in part Plaintiffs' Motion for Further Injunctive Relief, the Court directed that:

Implementation Reports.

Beginning with the first day of the spring and summer spills, and every 30 days thereafter, federal defendants shall provide the court with a written report describing the implementation and progress of the spill program.

Opinion and Order (Docket No. 1221) at 11.

As described in the Second Declaration of Colonel Gregg F. Martin (now Brigadier General Gregg F. Martin) (Docket No. 1138)^{1/} and the Fourth Declaration of Rock Peters (Docket No. 1135), and as noted by the Court at page 6 of the Opinion and Order, the spring spill program that the Federal Defendants described in response to the Plaintiffs' motion, and which they will implement pursuant to the Court's order, is to commence spring spill at the four Snake River Dams (Lower Granite, Little Goose, Lower Monumental and Ice Harbor) on April 3.^{2/}

Accordingly, we file as our first status report on spill implementation **Exhibit A** hereto, entitled "2006 Fish Passage Implementation Plan." The Plan comprehensively describes the overall plans for fish passage at the Federal Columbia River Power System ("FCRPS") dams for the 2006 migration season, including spring and summer spill. Exhibit A at 1. It is derived from the information presented in the Martin and Peters Declarations and is consistent with the

¹ Note that the table at page 4 of the Martin Declaration incorrectly referenced, in the second cell of the first row, the Spring period on the Lower Columbia as "April 20 - June 30." Consistent with the text at ¶ 6 on page 3 of the Martin Declaration, the April 20 date should state April **10**.

²Spill will commence at the four lower Columbia River dams (McNary, John Day, the Dalles and Bonneville) on April 10. Exhibit A at 1.

adaptive management approach reflected in the 2004 FCRPS BiOp. See id. Tables showing particular spill patterns by project is included at **Attachment 1 to Exhibit A**.

The Fish Passage Implementation Plan confirms that the Action Agencies have modified their fish passage operations to incorporate the two specific changes directed by the Court's December 29, 2005 Opinion and Order. Id. at 1. Thus, the plans described in the Declarations submitted to the Court on November 21, 2005 have been modified to include: (1) spill at Lower Granite and Lower Monumental Dams from April 20 through May 30, 2006, and at Little Goose from May 26-30, 2006), consistent with the 2004 Biological Opinion; and (2) continuation of summer spill operations from August 15-31, consistent with the 2004 Biological Opinion. Id. See also Opinion and Order at 11 ("conclusion" paragraph). Water Management Operations not addressed in the Court's Order will continue to be consistent with the operations considered in the 2004 Biological Opinion and, in particular, the 2006 Water Management Plan developed thereunder. Exhibit A at 1.

Pursuant to the Court's instructions, a further report will be filed in 30 days. The report will include the hourly flow through the powerhouse at each dam; the hourly flow over the spillway compared to the target spill for that hour; and, the resultant 12-hour average total dissolved gas ("TDG") for the tailwater at each project and for the next project's forebay downstream. Id. at 20. Some of this information is available on a more real-time basis at the websites indicated on page 20 of Exhibit A. It will also report on any emergency situations that may arise or significant unforeseen complications. Id.

Dated: April 3, 2006

Respectfully Submitted,

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CERTIFICATE OF SERVICE

Pursuant to Local Rule Civil 100.13(c) and Fed. R. Civ. P. 5(d), I certify that on April 3, 2006, the foregoing Federal Defendants' Notice of Filing First Spill Implementation Report, with Exhibit, will be electronically filed with the Court's electronic filing system, which will generate automatic service upon all Parties enrolled to receive such notice. The following will be manually served by first class U.S. mail, as noted:

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