

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

NATIONAL WILDLIFE FEDERATION, <i>et al.</i> ,	)	Civ. No. CV01-00640-RE
	)	
Plaintiffs,	)	
	)	
v.	)	<b>SECOND DECLARATION OF</b>
	)	<b>J. WILLIAM MCDONALD,</b>
	)	<b>Regional Director</b>
	)	<b>Pacific Northwest Region</b>
NATIONAL MARINE FISHERIES SERVICE	)	<b>Bureau of Reclamation</b>
	)	
Defendants.	)	
	)	

I, J. William McDonald, aver as follows:

1. I am the Regional Director of the Pacific Northwest Region, Bureau of Reclamation (Reclamation), U.S. Department of the Interior. I assumed my position in June of 1999.
2. Prior to this assignment, I served as a Special Assistant to the Commissioner of Reclamation; an Assistant Regional Solicitor for the Department of the Interior's Regional Solicitor's Office in Sacramento, California; and the Assistant Commissioner of Reclamation for Resources Management. I also served as the Acting Commissioner of Reclamation for six months in 2001 during the transition from the administration of President Clinton to that of President Bush. Prior to coming to the Department of the Interior in 1990, I served for 11 years as the Director of the State of Colorado's Water Conservation Board.
3. As a result of having held these various positions since 1979, I have over 25 years of experience in dealing with the operation of complex, multiple facility systems of dams and hydropower plants.
4. I have a Bachelor of Science degree in chemistry from The Colorado College, a Masters of Science degree in natural resources management from the University of Michigan, and a Juris Doctorate degree from the University of Chicago Law School.
5. Reclamation's Pacific Northwest Region encompasses the United States' portion of the Columbia River Basin and certain coastal river basins in Oregon and Washington. My current responsibilities include overseeing the operation and maintenance of Reclamation's Congressionally authorized water supply and hydropower projects which are located throughout the region.
6. This includes the operation and maintenance of Grand Coulee Dam and Powerplant and Hungry Horse Dam and Powerplant, which are two of the 14 facilities collectively referred to herein as the Federal Columbia River Power System (FCRPS). The other 12 facilities in the

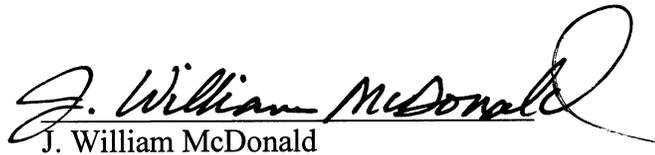
FCRPS are operated by the U.S. Army Corps of Engineers (Corps). The energy and capacity available from the FCRPS are marketed by the Bonneville Power Administration (BPA).

7. The operation of FCRPS facilities is coordinated by Reclamation, the Corps, and BPA (collectively, the Action Agencies) and the FCRPS is operated as an integrated system for flood control and hydropower generation, and to achieve its other Congressionally authorized purposes, which include navigation, irrigation, municipal and industrial water supply, fish and wildlife conservation, and recreation.
8. FCRPS operations are very complex and involve consideration of: (i) numerous system variables (projected runoff conditions, reservoir conditions, projected weather patterns, scheduling of powerplant maintenance and outages and of dam maintenance, energy markets, seasonal recreational uses of FCRPS reservoirs, timing of anadromous fish runs, resident fish needs, etc.), (ii) the need to fulfill the multiple purposes for which the FCRPS projects have been authorized, (iii) Tribal trust asset and treaty responsibilities, (iv) the regulatory requirements of numerous federal laws, (v) coordination with non-federal hydropower projects in the United States portion of Columbia River Basin, and (vi) coordination with Canadian entities pursuant to the Columbia River Treaty between Canada and the United States.
9. Both as a state and federal official, I have been deeply involved in numerous biological consultations regarding the construction, and the operation and maintenance, of federal water resources development projects throughout the western United States pursuant to section 7(a)(2) of the Endangered Species Act (ESA) for about 20 years. I have substantial experience with the section 7 consultation process, including the development and description of federal actions to be consulted upon, the development of reasonable and prudent alternatives to proposed actions (when required), and the intricacies and complexities of the consultation process when applied to large and complex federal actions such as the operation of the FCRPS and other Reclamation projects.
10. If the court were to remand the 2004 “Biological Opinion – Consultation on Remand for Operation of the Columbia River Power System and 19 Bureau of Reclamation Projects in the Columbia Basin” (2004 BiOp), Reclamation would again expect to consult not only on the federal action of operating the FCRPS, but also on the separate federal actions of operating the 19 Reclamation projects (to the extent of their aggregate hydrologic effects on the mainstem of the Columbia River) which were addressed by the 2004 BiOp. Addressing multiple, separate federal actions in a single consultation is permitted, but not required, by 50 CFR 402.14(c).
11. Furthermore, should the court remand the 2004 BiOp, it is my opinion that the Action Agencies will have to reconsider the 2004 Updated Proposed Action which was the subject of the 2004 BiOp in light of current circumstances and the court’s rulings in this case. In turn, the Action Agencies may, in their discretion, determine that a new action should be developed which varies from the 2004 UPA, with this new action becoming the proposed action which would be the subject of the remand.

12. Reconsideration of the 2004 UPA, and the potential development of a new proposed action, will require time and resources given the complexities of the FCRPS, its multiple authorized purposes, and the factors cited in paragraph 8 above. The describing of the action to be consulted upon is not an easy or simple task. Furthermore, as noted in the accompanying declaration of Col. Gregg Martin, developing an alternative FCRPS operational regimen necessarily entails trade-offs between competing regional interests. Impacts to these interests are properly considered by the Action Agencies as they develop a proposed action for the operation of the FCRPS. This often requires the Action Agencies to do iterative analyses of the options available to them before they decide upon a final proposed action for the operation of the FCRPS.
13. Based upon my extensive experience with section 7 consultations on water resources development projects, my detailed knowledge of the complexities of the FCRPS, my detailed knowledge of the operational requirements of Reclamation's 19 projects, and the collaborative processes discussed in the accompanying declarations of Col. Martin and D. Robert Lohn, it is my opinion that a remanded consultation cannot be accomplished in less than 24 months from the date that a remand is ordered.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 19, 2005.

  
J. William McDonald