

**STATUS REPORT**  
**OF NOAA FISHERIES AND THE BUREAU OF RECLAMATION**  
**For the Remand of the upper Snake Biological Opinion**  
**October 3, 2006**

On September 26, 2006, the Court entered its Opinion and Order of Remand requesting an initial status report to be filed no later than October 3, 2006. As the Court recognized, due to the time constraints, this is not a detailed status report and only provides a preliminary assessment of how NOAA Fisheries and the Bureau of Reclamation will produce a comprehensive analysis of the Federal Columbia River Power System (“FCRPS”) operations and Reclamations Upper Snake River irrigation projects. Opinion and Order of Remand at 11 n.5. As this consultation progresses, unforeseen problems or issues may develop, which may require the agencies to adjust this preliminary assessment.

This report provides the current views of NOAA Fisheries and the Bureau of Reclamation on how the remanded consultation on Reclamation’s Snake River irrigation projects will be undertaken to comply with the Court’s May 23, 2006 Opinion and Order and its September 26, 2006 Opinion and Order of Remand. Both agencies understand the Court’s direction to comprehensively analyze the aggregated effects of the FCRPS and Reclamation’s upper Snake projects on listed salmon and steelhead.

Consistent with the Orders of the Court and the Snake River Water Rights Settlement Agreement (“Settlement Agreement”), the agencies intend to produce a separate Biological Opinion (BiOp) covering the operation of Reclamation’s upper Snake Projects independent of the consultation for the FCRPS. Consistent with the Settlement Agreement the Reclamation actions to be consulted upon will be those described in the Biological Assessment for the Bureau of Reclamation Operation and Maintenance in the Snake River Basin above Brownlee Reservoir (Upper Snake BA 2004). NOAA’s analysis will result in either a no jeopardy or jeopardy opinion. In the event of a jeopardy opinion, NOAA Fisheries and Reclamation will work together to develop a reasonable and prudent alternative to the proposed action. While the Settlement Agreement dictates the proposed Reclamation action and a separate consultation, it does not and cannot direct the outcome of the consultation.

The same approach, data, and analytical tools (e.g. the COMPASS juvenile survival model) will be applied to both the FCRPS and upper Snake consultations. The upper Snake remand will use the same jeopardy standard and metrics used for the FCRPS consultation.

In the FCRPS consultation, the comprehensive effects of Federal, state, and private activities, including the effects from the operations of Reclamation’s upper Snake projects (i.e. Reclamation’s proposed action as defined by the Settlement Agreement) will be included in the environmental baseline. The proposed action for the remanded upper Snake consultation will be to continue current operations, consistent with the Settlement Agreement. As this Court directed, the jeopardy standard will be applied to

the aggregated FCRPS proposed action (or RPA), Reclamation’s upper Snake proposed action (or RPA) as well as any non-Federal actions that are reasonably certain to occur and evaluated using quantitative metrics and other qualitative information.

Prior to the Court’s remand order, Reclamation provided the Federal FCRPS consultation team projected monthly flows into Brownlee Reservoir at the upper end of Idaho Power Company’s Hells Canyon Complex, reflecting all federal and non-federal effects to flows, for use in the FCRPS consultation. Prior to completion of NOAA Fisheries analysis for the FCRPS consultation, Reclamation will review the data it has provided and determine if any changes are appropriate in order to have the most accurate projections of anticipated future hydrologic conditions in the lower Snake and Columbia Rivers.

After the FCRPS proposed actions have been developed and NOAA Fisheries’ analysis in that consultation is concluded, the agencies will turn to the consultation on Reclamation’s upper Snake Projects. This does not imply that an entirely new analysis will be undertaken. NOAA Fisheries analysis for the FCRPS, with the effects from operations of upper Snake Projects in the baseline, will identify the aggregated effects on listed salmon and steelhead. The consultation for Reclamation’s upper Snake projects will essentially rearrange the components of the FCRPS consultation by defining the proposed action to be a continuation of current upper Snake operations and by placing the effects from new FCRPS operations in the Environmental Baseline. By using the same approach, data, and analytical tools, and by aggregating the effects from the same suite of actions, the agencies anticipate that this analytical framework will result in a comprehensive analysis of both FCRPS operations and Reclamation’s upper Snake Projects for listed salmon and steelhead.

As stated above, the Settlement Agreement does not dictate the result of this consultation and thus it remains to be seen what the outcome of NOAA Fisheries analysis will be.

For background regarding Reclamation’s flow augmentation action, Reclamation has provided the following volumes of water for flow augmentation since 1993:

Year	Provided	Objective
1993	424,588	427,000
1994	428,112	427,000
1995	427,235	427,000
1996	422,141	427,000
1997	437,281	427,000
1998	427,000	427,000
1999	427,000	427,000
2000	427,000	427,000
2001	90,288	427,000
2002	286,534	427,000
2003	285,110	427,000
2004	341,308	427,000
2005	427,361	427,000

2006	487,000	487,000
Total	5,337,958	6,038,000

As reflected above, Reclamation provided essentially the full volume called for in 10 of the 14 years. Reclamation did not provide the full volume requested in the drought years of 2001 through 2004. In future similar drought conditions under the Settlement Agreement, provisions of the Settlement Agreement would allow Reclamation to provide greater volumes of water.