



United States Department of the Interior



BUREAU OF RECLAMATION
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IN REPLY REFER TO:

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Willamette River Basin Biological Opinion and the U.S. Bureau of Reclamation Water Marketing Program

Dear Contractor/Applicant:

As you know, Reclamation administers a water marketing program whereby individuals and/or irrigation entities may contract for a supply of stored water for the purpose of irrigation from reservoirs in the Willamette Basin that have been constructed, and are operated and maintained by the U.S. Army Corps of Engineers (USACE). Since April 2000, Reclamation has been participating with the USACE and the Bonneville Power Administration in the Endangered Species Act (ESA) consultation for the continued operation of the USACE's Willamette River Basin Project (Project). During this time Reclamation accepted applications for, but did not issue, new long-term water service contracts.

On July 11, 2008, NOAA Fisheries (NMFS) will issue guidance, known as a Biological Opinion, for protecting salmon and steelhead affected by the 13 dams and reservoirs and 42 miles of levees which make up the Project. A comprehensive public information campaign is planned and you will no doubt hear more about this opinion in the weeks and months to come through local media outlets.

This information sheet is being sent to all existing long-term contract holders and to each applicant that was placed on the waiting list for a new long-term contract. As you are a Reclamation customer, we want to communicate directly with you in order to explain how the Biological Opinion will alter Reclamation's water marketing program and what the impacts will be to you the water user.

SUMMARY OF THE KEY ISSUE

One of the authorized purposes of the Project is the storage and release of water to downstream users who have contracts with Reclamation for irrigation use. NMFS determined that the subsequent diversion of water by Reclamation's contractors can adversely affect Upper Willamette River Chinook and steelhead by reducing the amount of stream flow available for use by all life stages and by entraining juveniles into water diversions.

Consequently, NMFS established Reasonable and Prudent Alternative (RPA) measures to minimize the effects of diversions by Reclamation's contractors on listed species by (1) limiting the total amount of stored water that can be provided under contracts, (2) requiring existing contract diverters to install screens and other fish passage devices within a specified timeframe,

(3) requiring screening of all new contract diversions, (4) ensuring that water released to serve contracts does not prevent meeting minimum flow objectives, and (5) reducing the volume of stored water diverted by contract holders in deficit (low) water years to ensure minimum objectives are met.

FREQUENTLY ASKED QUESTIONS

1. Will the existing irrigation contract water marketing program for the Project be continued under this Biological Opinion?

The good news is yes. Reclamation will manage existing contracts and will issue new contracts, except in the North and South Santiam sub-basins (as explained in item 6 below), and provided that the total water marketing program, including existing contracts, does not exceed a total of 95,000 acre feet. As new contracts are issued and existing ones come up for renewal, Reclamation must make sure that the total amount of contracted water stays at or below 95,000 acre-feet.

2. What if future irrigation demand exceeds 95,000 acre-feet?

If future irrigation demand exceeds the amount authorized under this Biological Opinion, Reclamation and the USACE will reevaluate the availability of water from conservation storage for the water marketing program and reinitiate consultation with NMFS if additional contracts are proposed.

3. How firm are these contracts?

All contracts are and will be subject to the availability of water, as determined by the USACE each year. Water may not be available for some or all of each year in order to meet ESA requirements and other Project obligations for instream flows (e.g. minimum flows to protect water quality). Reclamation may issue notices, orders, rules, or take other steps governing water service as necessary to comply with the requirements of the ESA, including appropriate biological opinions and Incidental Take Statements.

NMFS finds that in most years and in most of the Project-affected tributaries, sufficient water is available to meet fish flow needs and still supply a water marketing program of up to 95,000 acre-feet and that Reclamation's contract language affords it the ability to curtail irrigation water deliveries when insufficient water is available to meet both instream flow needs and irrigation demand.

NMFS determined that this measure is necessary to ensure that adequate water is available for protection of listed fish in the tributaries and mainstem Willamette. This measure also minimizes adverse effects on critical habitat by providing enough water so that minimum flows needed for properly functioning habitat are not precluded by Reclamation's contract program.

4. What happens in deficit (low or water-short) years?

Contract fulfillment is subject to the USACE's annual operating plan for the Project, in which on or before April 1, the USACE will determine availability of water for irrigation contracts based on the best information available at that time. If a shortage is forecasted to occur, the USACE can designate this shortage to specific tributaries or throughout the Willamette basin, limiting the availability of the contract water supply. The USACE will inform Reclamation about the nature of the deficit and the water supply available for that year. Reclamation will then notify contractors and the Oregon Water Resources Department (OWRD) of forecasted irrigation storage water shortages.

The tributary minimum flows established in the RPA are designed to protect listed fish throughout the stream reaches downstream from Project dams. Diverting water under Reclamation contracts while Project dams are discharging to meet minimum flows could put listed fish at risk. This RPA measure requires the USACE and Reclamation to curtail contract diversions in deficit water years, and, in all other water years, it requires the USACE to release additional water above the minimum flow levels to ensure that contract users do not divert water intended for fish purposes.

5. What if the forecast changes and a water shortage becomes evident after April 1?

As a means to minimize impact to contractors, the USACE will identify the likelihood of curtailment by April 1. Early notification will assist water users to plan appropriately for a water shortage. In the event that a forecast that appeared adequate on April 1st changes to one predicting a "deficit" water year, the USACE will release additional flow at its dams sufficient to provide contracted amounts. This practice would protect contractors from interrupted water service mid-season, when it could result in excessive crop damage, while ensuring that streamflows are not unacceptably reduced by contract withdrawals in deficit water years.

The effect of this measure is that losses to listed fish species from low stream flows will be reduced while allowing the USACE to continue serving other Project purposes to the extent practical. Adverse effects on critical habitat will be reduced because this measure will provide for flows necessary to support listed fish.

6. Why can't new water service contracts be issued in the North and South Santiam River basins?

The North and South Santiam rivers are core population areas for Upper Willamette River Chinook and steelhead. Analysis shows that minimum tributary flows established for the North and South Santiam rivers are not met during certain months of the year. Diminished flows have been identified as a limiting factor for Upper Willamette River Chinook and steelhead in the basin.

Based on this information, NMFS determined that permitting additional water to be diverted from the stream would further reduce the likelihood of meeting minimum flows

and result in less habitat available for rearing, spawning, and incubation. Because OWRD has determined that natural flow is unavailable in the North and South Santiam Rivers, this curtailment of further water service contract issuance effectively protects these rivers from further flow reduction. This measure would not improve fish habitat, but it would prevent further degradation.

7. Can additional water be marketed in the North and South Santiam River basins during good water years?

Possibly. The USACE will update its flow exceedence models every five years, and, together with results of fish flow studies, determine whether additional water is available during most years for new irrigation contracts based on this information. If the USACE determines that additional water is available to serve irrigation demand without adversely affecting listed fish and their critical habitats, and the NMFS and USFWS concur, Reclamation may issue new contracts based on and limited by the USACE's determination.

8. Are there any other conditions attached to the water service contracts?

Yes. An unknown number of diversions using Reclamation water service contracts are unscreened. All existing contracted diversions will be required, as a condition of continuing to receive Project water, to have fish protection devices (primarily fish screens) in compliance with NMFS design criteria, and approved by NMFS. Contractors that do not comply with this condition will not be eligible to continue to receive irrigation water service from the Project and their contract may be subject to termination. The compliance deadline is April 1, 2010, unless a later date is authorized. While contractors proceed with the fish protection device installation or modification and approval process, they may continue to divert water under the terms and conditions of their existing contracts. This measure ensures that these protections will be in place prior to contract renewal but does not require immediate screening of all existing diversions.

For all new and renewed contracts measures will be in place to ensure (1) diversions have fish protection devices in compliance with NMFS design criteria, and approved by NMFS, and (2) that the rate and volume of water diverted can be accurately measured and controlled.

The effect of these measures is to minimize losses of listed fish, caused by entrainment into existing water diversions or ineffective passage at diversion sites, over the 15-year term of the Biological Opinion and to minimize losses of listed fish at diversions that acquire a new or renewed Reclamation contract during the term. Contract conditions requiring headgate flow controls, measurement, and water curtailment will reduce adverse effects on listed species.

SUMMARY

The overall effect of the RPA's specific to Reclamation's water contract marketing program is to ensure continued compatibility of irrigation, including future growth, with the needs of Upper Willamette River Chinook and steelhead.

WHAT NEXT?

Now that the Biological Opinion has been issued, the federal agencies must begin implementing the measures recommended by NMFS. Reclamation will soon begin notifying each contractor and applicant with specific details regarding implementation of the measures described above. In the mean time, if you have additional questions regarding the potential impacts to you from the Biological Opinion, you may contact Bill Parks at (208) 378-5344, or, in his absence, Michael Cobell at (208) 378-5223, or you may write to their attention at the above address.

Sincerely,

RYAN M. PATTERSON

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Program Manager
Repayment and Acreage Limitation