

June 12, 2008

Mr. Mark Walker
Public Affairs Division Director
Northwest Power and Conservation Council
851 SW 6th Avenue, Suite 1100
Portland, OR 97204

Submitted Online

Re: Comments on Recommendations for Amendments to the Columbia Basin Fish and Wildlife Program

Dear Mr. Walker:

These comments are submitted on behalf of the Idaho Water Users Association and the Committee of Nine regarding the Recommendations to Amend the Columbia Basin Fish and Wildlife Program. The Idaho Water Users Association (“IWUA”) and the Committee of Nine (collectively, “Idaho Water Users”), appreciate the opportunity to provide these comments.

IWUA is a non-profit corporation representing irrigation districts, canal companies, ground water districts, water districts, public water suppliers, municipalities, hydroelectric companies, aquaculture interests, agri-businesses, professional firms and individuals, all dedicated to the wise and efficient use of our water resources. IWUA members provide water to approximately 2.5 million acres of irrigated farmland in Idaho. They own the right to use water from private irrigation reservoirs and those that were built by the U.S. Bureau of Reclamation, as well as natural flow water rights diverted from Idaho’s rivers and streams. Several IWUA members use and rely upon electricity generated by Idaho Power Company, including the power produced by the Hells Canyon Hydroelectric Project.

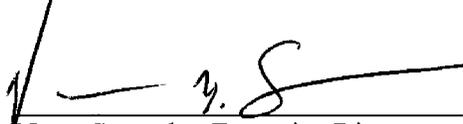
The Committee of Nine is the official advisory committee for Water District 1, the largest water district in the State of Idaho. Water District 1 is responsible for the distribution of water among appropriators within the water district from the natural flow of the Snake River and storage from U.S. Bureau of Reclamation reservoirs on the Snake River above Milner Dam. The Committee of Nine is also a designated rental pool committee that has facilitated the rental of stored water to the Bureau of Reclamation to provide water for flow augmentation pursuant to various biological opinions issued for salmon and steelhead species listed under the Endangered Species Act.

The Coalition appreciates the opportunity to provide these comments and look forward to reviewing the Final Program Amendments.

Respectfully submitted by,



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Oh behalf of the Committee of Nine



Norm Semanko, Executive Director and
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encl.

cc:

Governor Otter
Idaho Congressional Delegation
Idaho Senator Pro Tem Robert L. Geddes
Idaho Speaker of the House Lawrence Denney
Idaho Senator Gary J. Schroeder
Idaho Representative Bert Stevenson
Idaho Representative Dell Raybould
Northwest Power and Conservation Council Members:
 Bill Booth
 Bruce A. Measure
 Joan Dukes
 Melinda Eden
 Tom Karier
 Dick Wallace
 Rhonda Whiting
 Jim Yost
Donna Darm
John Palensky
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Dave Mabe
Nate Fisher
Cal Groen
Dave Tuthill
Virgil Moore
Dan Daley
J. William McDonald
Witt Anderson
Clive Strong
Bob Lohn
Roger Fuhrman
Chris Randolph
Richard Rigby
Bruce Lovelin
Tom Donnelly
Doug P. Arndt

**COMMENTS ON RECOMMENDATIONS
FOR AMENDMENTS TO THE
COLUMBIA BASIN FISH AND WILDLIFE PROGRAM**

Submitted on Behalf of:

Idaho Water Users Association
Committee of Nine
c/o Norm Semanko
1010 West Jefferson, Suite 101
Boise, Idaho 83702

June 12, 2008

COMMENTS ON RECOMMENDATIONS FOR AMENDMENTS TO THE COLUMBIA BASIN FISH AND WILDLIFE PROGRAM

JUNE 12, 2008

1.0 Introduction

The Northwest Power and Conservation Council solicited recommendations from the region's Indian Tribes, state and federal fish and wildlife agencies, and the public to amend their Columbia River Basin Fish and Wildlife Program. A total of 65 recommendations have been posted on the Council's web site:

<http://www.nwcouncil.org/fw/program/2008amend/recs.asp>. The Council is now requesting public review and comment on submitted recommendations. The Council recommends that general comments and comments to specific recommendations be submitted online through the above website. The deadline for submitting comments is June 12, 2008.

The Committee of Nine and the Idaho Water Users Association (Idaho Water Users) have been actively involved in submitting comments and recommendations to prior program amendments and continue to support salmon recovery in the Columbia River Basin. The Idaho Water Users support amendments to the Fish and Wildlife Program based on good science that reflect reservoir operations and stream conditions that will aid recovery of listed species while protecting non-listed species and the economy of the region and respecting state statutes and prior agreements.

The 65 recommendations were reviewed for potential issues affecting the interests of the Idaho Water Users¹ in Idaho's water resources². Comments to recommendations have been grouped into areas of common theme and are submitted as a general comment to the Council. References to specific recommendations are provided where applicable.

¹ Idaho Water Users include members from the Committee of Nine and the Idaho Water Users Association. The Idaho Water Users goal is the preservation and protection of Idaho water rights.

² The Idaho Water Users enlisted the scientists at ERO Resources to assist with the review of the recommendations.

2.0 Reintroduction of Anadromous Fish above the Hells Canyon Complex.

Recommendations submitted by the following entities referred to reintroduction of anadromous fish above the Hells Canyon Complex:

- Burns-Paiute Tribe
- Columbia Basin Fish and Wildlife Authority
- Charles Pace
- Shoshone-Bannock Tribes
- Shoshone-Paiute Tribes

The Idaho Water Users are opposed to the reintroduction of anadromous fish above the Hells Canyon Complex. The impacts of reintroduction would be very large and detrimental on irrigation, municipal, industrial, hydropower, recreation, fishing, flood control and other existing uses of water above the Hells Canyon Complex. Burdensome restrictions would be imposed upon the diversion, storage and use of water under the Endangered Species Act (“ESA”), Clean Water Act and other federal and state laws and regulations. The cost would be significant, including:

- The cost to irrigators, cities, industries, and other water users from potential loss of water supplies;
- The cost to hydropower customers from potential reservoir re-operation;
- The cost to recreation users from potential changes in reservoir level and downstream releases;
- The costs from water quality impacts resulting from changes in storage releases;
- Costs for all water users from ESA consultations; and
- Costs of additional regulatory burdens from critical habitat designations.

These potential costs were significant enough in the context of proposed critical habitat designations for bull trout that the U.S. Fish & Wildlife Service recently chose not to designate any of the area above Hells Canyon as critical habitat for that species of fish. Fed. Reg., Vol. 69/193; 59995-60076 (Oct. 6, 2004). The Idaho Water Users projected these costs as being in excess of one billion dollars in comments submitted to the Service regarding its economic analysis, which itself estimated the potential adverse economic impacts as high as \$300 million.

Reintroduction would also harm existing working relationships between federal agencies and various entities, including the Idaho Water Users, the State of Idaho and others. Most notably, reintroduction would undermine the cooperative efforts initiated through the Snake River Water Rights Settlement Agreement of 2004 (Nez Perce Agreement³), approved by Congress, the Idaho State Legislature, and the Nez Perce Tribe. The Agreement sets the parameters for flow augmentation contributions from Idaho for ESA listed salmonids over the next 30 years. Extending the reach of the salmon into the basin above Hells Canyon would undoubtedly increase the pressure for flow augmentation in Idaho, thereby upsetting the careful balance achieved by the Agreement.

For these reasons the Idaho Water Users submit that upstream passage and reintroduction of fish above the Hells Canyon Complex is not feasible or warranted under the Program.

3.0 Reservoir Operations.

Recommendations submitted by several entities referred to adjusting reservoir operations and monitoring the effects of dam operations. Recommendations include management actions to address gas entrainment, enhance the natural flow hydrograph and natural river processes, provide reservoir and spill levels to increase passage survival and spawning and rearing habitat, and use of stored water to manage water temperatures.

- Booker, Mark
- Columbia Basin Fish and Wildlife Authority
- Confederated Tribes of the Grand Ronde
- Confederated Tribes of the Umatilla Reservation
- East Columbia Basin Irrigation District
- Northwest River Partners
- Oregon Department of Fish and Wildlife
- Pace, Charles
- Shoshone-Bannock Tribes
- Washington Governor's Salmon Recovery Board

³ The Nez Perce Agreement (Snake River Water Rights Settlement Agreement of 2004) resolved instream flow rights between the Nez Perce Tribe and the State of Idaho. The Agreement resulted in decreed water rights by the Snake River Basin Adjudication Court for minimum flow in the Snake River including the lease of 487,000 acre feet of water from Idaho water banks for flow augmentation.

The Idaho Water Users believe that reservoir operations should be considered within system constraints and boundaries of existing statutes and agreements. Although biological benefits are the goal, modification of reservoir operations should also consider the technical, economic and legal feasibility consistent with the Nez Perce Agreement⁴.

4.0 Flow Augmentation.

Recommendations submitted by the following entities referenced flow augmentation from upper Snake and tributary storage reservoirs.

- Columbia Basin Fish and Wildlife Authority
- Idaho Fish and Game
- Northwest River Partners
- Oregon Department of Fish and Wildlife
- Pace, Charles
- Washington Governor's Salmon Recovery Board

The Idaho Water Users do not support flow augmentation but agree to water management actions consistent with the Nez Perce Agreement⁵.

5.0 Columbia-Snake Basin Biological Opinions.

Recommendations submitted by the following entities referred to incorporating the FCRPS and Upper Snake Biological Opinions into the program and managing reservoir operations consistent with the Biological Opinions.

- Bonneville Power Administration
- Charles Pace
- Columbia Basin Fish and Wildlife Authority
- Confederated Tribes of the Colville Reservation
- Corps of Engineers and Bureau of Reclamation
- Idaho Fish and Game
- Northwest River Partners
- Northwest Sportfishing Industry Association
- Oregon Department of Fish and Wildlife
- Shoshone-Bannock Tribes
- Upper Columbia United Tribes
- Yakama Nation

⁴ Ibid.

⁵ Ibid.

The Idaho Water Users agree that Upper Snake River reservoir operations should be consistent with the Biological Opinion for the Upper Snake Basin. In addition, reservoir operations must be consistent with the Nez Perce Agreement⁶.

6.0 Water Quality.

Recommendations submitted from the following entities referred to water quality. Recommendations included reservoir operational changes and upstream actions to reduce temperatures, address invasive species and contamination in tributary habitats, and development of water quality plans.

- Burns Paiute Tribe
- Oregon Department of Fish and Wildlife
- US Environmental Protection Agency
- US Geological Survey

The Idaho Water Users recommend actions consistent with the Nez Perce Agreement⁷. Currently the entire Snake River, including many of its tributaries, is operating under watershed management plans made up of multiple TMDL (total maximum daily load) studies and requirements. The Plan is currently monitored by the Idaho Department of Environmental Quality as approved by the Environmental Protection Agency.

7.0 Fish Passage Center.

Several recommendations were submitted requesting continued funding of the Fish Passage Center, reorganization of the oversight board, and funding one position capable of analyzing effects of reservoir operations.

- Columbia Basin Fish and Wildlife Authority
- Oregon Department of Fish and Wildlife
- Shoshone-Bannock Tribes

The Idaho Water Users believe that the Fish Passage Center (FPC) functions should be limited to data collection and storage. FPC data should enable management agencies to carry out their responsibilities. The Idaho Water Users support broader oversight and

⁶ Ibid.

⁷ Ibid.

supervision for the Fish Passage Center to ensure that functions are performed in a way that ensures regional accountability and compatibility with regional data management.

8.0 Water Right Transactions.

Several recommendations were submitted requesting additional funding for water right transactions and regional water marketing to acquire additional instream flows.

- Columbia Basin Water Transactions Program
- Confederated Tribes of Grand Ronde
- Montana Fish Wildlife and Parks
- Washington Governor's Salmon Recovery Board

The Idaho Water Users oppose water right transactions that are not consistent with state law, previous agreements, and between willing buyers and sellers.

9.0 Minimum Stream.

The Columbia Basin Fish and Wildlife Authority recommends the restoration of peak springtime flows and increased stream flows during critical periods in the South Fork of the Snake River.

The Idaho Water Users would like to emphasize that any minimum stream flows must be developed pursuant to state law and existing water rights must be protected. In other words, new minimum flows cannot be used as the basis for curtailing or shutting-off existing water rights. We appreciate NPCC's continued recognition of, and deference to, Idaho water law in this regard.