

NEPA Considerations For Immediate Breaching of the Four Lower Snake River Dams, Tier 1

1. The federal agencies responsible for operation of the Federal Columbia River Power System have been directed by Federal Court to undertake a new NEPA analysis addressing the impacts of the FCRPS on continued survival and recovery of listed Snake River salmonid stocks, particularly the wild component. Wild stocks have shown no improvement, and in some cases have declined, since the selection of the Systems Improvement Alternative under the Corps' 2002 Feasibility Report/EIS.
2. The Record of Decision for the 2002 EIS states the selected alternative is unlikely to recover juvenile salmon and the breaching alternative provides the highest probability of meeting survival/recovery of listed Snake River Stocks. The US Fish and Wildlife Service Coordination Act Report (USFWS CAR) associated with this EIS concluded the benefits to fish and wildlife resources from dam breaching would exceed those provided by the other alternatives and that the other alternatives would be unlikely to meet recovery goals.
3. Many agencies/experts have concluded at least some Snake River stocks will reach extinction within the next 5 years. Therefore, only immediate breaching of the earthen section of the dams can prevent extinction.
4. To implement an immediate breach action, the Corps of Engineers can proclaim an emergency response action under CEQ Guidance Memorandum for Heads of Federal Departments and Agencies issued May 12, 2010. This memorandum addresses development of an agencies' response "to situations involving immediate threats...to valuable natural resources..." and "they must consider whether there is sufficient time to follow the procedures of environmental review established" under applicable CEQ Regulations "and agency NEPA implementing procedures and regulations." Additionally, under Attachment 1 of this memorandum, Emergency Actions Under the NEPA, paragraph 2.d. states, "If the proposed emergency response activity is not statutorily exempt from NEPA and is expected to have "significant" environmental impacts, the agency should determine whether it is covered by an existing NEPA analysis." The listed stocks threatened with extinction certainly qualify as a valuable natural resource and sufficient environmental review has already been undertaken in the 2002 EIS and thus, the Corps is covered by this existing NEPA analysis.
5. By exercising an emergency action, the Corps could at a minimum, accomplish immediate breaching of the Lower Granite dam starting December, 2016 during the preferred in-water work window. There is ample time to conduct the necessary contracting processes, especially if the Corps utilizes a Time and Materials contract, as well as coordination with resource agencies for required permitting. Breaching of the remaining three lower Snake River dams could then be implemented starting in December, 2017.
6. Subsequent to implementing the initial emergency action, the Corps can then supplement the 2002 EIS to address required mitigation and monitoring plans and actions for all impacted aquatic and terrestrial species/natural resources as already outlined in the USFWS CAR. This supplement would also address the disposition of lands and the natural flowing river, i.e., what agency/agencies would manage the river and adjoining lands and resources and how those lands and resources would be managed/protected in perpetuity. IAW Aug 2016 Corps DCW Guidance for Disposition Studies.
7. How the remainder of the FCRPS will be managed to address the Court's directive and complement the Corps' emergency action would be addressed in a new EIS , Tier 2, as briefly described below.

Conclusion: It is within the Corps' existing authority to immediately implement breaching of the Lower Snake River earthen dams and is the most effective way to attain recovery of the listed Snake River salmonid stocks.

## Tier 2 Federal Response Actions and EIS

The Tier 2 EIS essentially addresses all other potential federal actions and updated Systems Operations Review, SOR, outside the 140 mile Lower Snake river corridor which is covered in the Tier 1 Emergency Response Acton for Breaching and a Supplementation of the 2002 EIS noted above. Since breaching of at least 3 of the dams will occur in the same timeframe of Tier 2 studies off the Lower Snake, the scoping will assume that the lower Snake River is free flowing, via channel-bypass around the remaining concrete structures of the dams. Empirical observations updating preexisting studies are sufficient to provide downstream and upstream effects, eg, increased salmon population effects, temperature reductions, etc., necessary for much of the analysis that will begin in the spring of 2017.

The Notice of Intent to Prepare the Columbia River System Operations Environmental Impact Statement issued around 1 October 2016 should be revised to reflect that a breach decision, based on the existing 2002 Environmental Impact Statement has been made and that breaching of Lower Granite Dams will commence IAW with supplemented breach plan contained in the 2002 EIS, copy attached, commencing with drawdown of Lower Granite Reservoir in December of 2016. To save time and money the Public meetings scheduled in the subject Notice of Intent should also allow for comments on the disposition issues noted above in the Tier 1 Supplementation of the 2002 EIS.

The Tier 2 studies, and EIS are essentially a Programmatic EIS and should be completed in the time frame and dollar amounts provided for in the Corps SMART 3x3x3 planning guidance. This is largely possible since a large amount of useable /studies and information exist. Further, specific actions resulting from the programmatic EIS will need an Environmental Assessment or EIS or Supplement thereto , depending on scope and impact, much like the 2002 EIS is used for the immediate breach phase, Tier 1.

### Conclusion

Along with the Tier 1 actions for breaching the Lower Snake Dams, the Tier 2 EIS/actions will insure that the Nation and the Pacific Northwest will have a well interlaced and balanced set of economic , biological , social and technical conditions that provide long term prosperity for the citizens while simultaneously preventing extinction and fully recovering noted species of concern such as Salmon, Steelhead, Orca, lamprey, Brown Trout, Sturgeon, etc., as well sustaining this treasured ecosystem. This two Tier approach affords the last best hope of ever doing so.