



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

Refer to NMFS Nos.:
2011/05875(USFS); 05876(BLM); 05877(COE)

June 4, 2012

Harv Forsgren
Regional Forester, Intermountain Region
USDA Forest Service
324 25th Street
Ogden, Utah 84401

Steve Ellis, State Director
Idaho Bureau of Land Management
1387 South Vinnell Way
Boise, Idaho 83709

Faye Krueger
Regional Forester, Northern Region
USDA Forest Service
P.O. Box 7669
Missoula, Montana 59807

Lt. Col. David A. Caldwell
U.S. Army Corps of Engineers
Walla Walla District
201 North Third Avenue
Walla Walla, Washington 99362-9265

Re: Endangered Species Act Section 7 Formal Consultation and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Consultation for the Restoration Activities at Stream Crossings on National Forests and Bureau of Land Management Public Lands in Idaho (10-year Programmatic with Numerous Projects)

Dear Mr. Forsgren, Ms. Kruger, Mr. Ellis, and Lt. Col. David Caldwell:

The enclosed document contains a concurrence and biological opinion (Opinion) prepared by the National Marine Fisheries Service (NMFS) pursuant to Section 7(a)(2) of the Endangered Species Act (ESA) on the effects of the Stream Crossing Structure Replacement and Removal Activities Program. Forest Service Region One and Four (USFS) and the Idaho State Office of Bureau of Land Management (BLM) are proposing the action according to their authority under the Forest and Rangeland Renewable Resources Planning Act (1974), as amended by the National Forest Management Act (1976) and its implementing regulations. This Opinion will also address the U.S. Army Corps of Engineers (COE) issuance of permits for actions completed under this consultation under section 404 of the Clean Water Act (CWA) (33 U.S.C. 1251 *et seq*).

In this Opinion, NMFS concludes that the proposed action is not likely to jeopardize the continued existence of Snake River spring/summer Chinook salmon (*Oncorhynchus tshawytscha*), Snake River Basin steelhead (*O. mykiss*), Snake River sockeye salmon (*O. nerka*); or result in the destruction or adverse modification of critical habitat designated for Snake River spring/summer Chinook salmon, Snake River Basin steelhead, and Snake River sockeye salmon.



As required by section 7 of the ESA, an incidental take statement prepared by NMFS is provided with the Opinion. The incidental take statement describes reasonable and prudent measures NMFS considers necessary or appropriate to minimize incidental take associated with this action.

It also sets forth nondiscretionary terms and conditions, including reporting requirements, that the USFS, BLM, COE, and any person who performs the action (including applicants), must comply with to carry out the reasonable and prudent measures. Incidental take from actions by the action agencies and applicants that meet these terms and conditions will be exempt from the ESA take prohibition.

Based on the best available information and presuming successful implementation of conservation measures described in the proposed action, NMFS has determined that the proposed action would have no more than a negligible potential to adversely affect Snake River fall Chinook salmon (*O. tshawytscha*), or their critical habitat. Therefore, NMFS concurs with the action agencies' finding that the proposed action is "Not Likely to Adversely Affect" Snake River fall Chinook salmon, and Snake River fall Chinook salmon designated critical habitat.

NMFS does not concur with the action agencies' finding that the proposed action is "Not Likely to Adversely Affect" Snake River sockeye salmon. The action agencies have added the Activity Category of *bridge construction in migratory sockeye salmon habitat* to the list of programmatic stream crossing actions submitted for this consultation. The action agencies' "Not Likely to Adversely Affect" finding for Snake River sockeye salmon was erroneously based on the premise that this species is not expected to be in streams where programmatic activities are proposed. Our findings do not support this conclusion, and instead indicate that adult and/or juvenile sockeye salmon could occupy migratory sockeye salmon habitat during periods when bridge construction activities may occur. Therefore, the action as proposed is "Likely to Adversely Affect" Snake River sockeye salmon and has been analyzed accordingly in this Opinion.

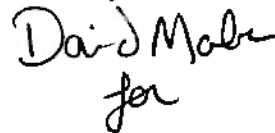
This document also includes the results of our analysis of the action's likely effects on essential fish habitat (EFH) pursuant to Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and includes eight conservation recommendations to avoid, minimize, or otherwise offset potential adverse effects on EFH. These Conservation Recommendations are a non-identical set of the ESA Terms and Conditions. Section 305(b)(4)(B) of the MSA requires Federal agencies provide a detailed written response to NMFS within 30 days after receiving these recommendations.

If the response is inconsistent with the recommendations, the USFS, BLM, or COE must explain why the recommendations will not be followed, including the justification for any disagreements over the effects of the action and the recommendations. In response to increased oversight of overall EFH program effectiveness by the Office of Management and Budget, NMFS established a quarterly reporting requirement to determine how many conservation recommendations are

provided as part of each EFH consultation and how many are adopted by the action agency. Therefore, in your statutory reply to the EFH portion of this consultation, we ask that you clearly identify the number of conservation recommendations accepted.

If you have questions regarding this consultation, please contact Nikki Leonard at 208-378-5708, or Bill Lind at 208-378-5697, Idaho State Habitat Office, Boise, Idaho.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dai-Moh" with a stylized "for" underneath.

William W. Stelle, Jr.
Regional Administrator

Enclosure

cc: B. Kelly - FWS
I. Jones - NPT
Y. Tuell - SBT
D. Mitchell - COE

Electronic copies to:

C. Seesholtz - BNF
K Lannom - PNF
R. Nouse - SNF
F. Guzman - SCNF
M. Farnsworth - IPNF
R. Brazell - NP/CWNF
D. Duffield - USFS
S. Spaulding - USFS
G. Cooper - BLM
J. Kraayenbrink - BLM
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L. Price - BLM
T. Kuck - BLM
S. Hoefer - BLM