



**U.S. Fish and Wildlife Service**



**National Marine Fisheries Service**

---

**Bi-State Water Diversion  
Habitat Conservation Plan  
for the Walla Walla River Basin**

**Environmental Scoping Report**

---

**May 2006**

## **Table of Contents**

- I. Introduction
- II. Background
- III. Purpose and Need for Agency Action
- IV. Summary of Scoping Process
  - A. Public and Agency Outreach and Notification
  - B. Tribal Outreach and Notification
  - C. Public Scoping Meetings
  - D. Agency Meeting
- V. Public Scoping Results
- VI. No Action Alternative and Alternative Actions
- VII. Resources to be Addressed in the EIS
- VIII. Summary of Future Actions

Exhibit A: Notice of Intent

Exhibit B: Legal Notice

Exhibit C: News Release

Exhibit D: Cooperating Agency Letter

Exhibit E: Dear Interested Party Letter

Exhibit F: Email Notification of Scoping Meetings

Exhibit G: Walla Walla County - Watershed Planning Department website information

Exhibit H: USFWS, Upper Columbia Fish and Wildlife Office website information

Exhibit I: Tribal Invite Letter

Exhibit J: Meeting Material Handouts

Exhibit K: Power Point Presentation from Scoping Meetings

Exhibit L: Written Responses to Public Notice or Dear Interested Party Letter

Exhibit M: Email Responses to Public Notice or Dear Interested Party Letter

Exhibit N: Public Comments and Agency Responses

## **I. Introduction**

The U.S. Department of the Interior, Fish and Wildlife Service (FWS) and the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) (hereinafter referred to as the “Services”), are preparing an environmental impact statement (EIS) to evaluate the environmental impacts associated with the potential issuance of incidental take permits to Irrigation Districts and other interested parties in the Walla Walla basin in Eastern Oregon and Washington.

As part of the EIS process, the Services are conducting public scoping meetings and sponsored agency and tribal scoping meetings. The purpose of these meetings is to solicit input from the general public, Native American Tribes, and other interested parties, governments, and organizations to assist the Services in identifying issues to be addressed in the draft EIS as well as developing a reasonable range of alternatives to be analyzed in the EIS.

The Services conducted the scoping process pursuant to Council of Environmental Quality regulations (40 CFR 1501.7) and Services’ guidance. The Services afforded the public the opportunity to ask questions about the proposed action and to offer input at the beginning of the EIS development process. The Services have prepared this report to document the scoping process and results obtained. This report includes the following information related to the scoping process and the development of the draft EIS.

- Background information on the issuance of incidental take permits to Irrigation Districts and other interested parties by the Services.
- Purpose and Need for the Proposed Action
- Summary of the Scoping Process
- Summary of Scoping Comments received
- Description of the proposed Alternatives, including the No-Action Alternative
- Summary of Impact Areas and Issues to be Addressed in the EIS

## **II. Background**

On June 10, 1998 the FWS listed the Bull Trout (*Salvelinus confluentus*) as threatened under the Endangered Species Act, and on March 25, 1999 the NMFS listed the Middle Columbia River Summer Steelhead ESU (*Oncorhynchus mykiss*) as threatened under the Endangered Species Act (ESA).

In June 2000, the FWS and three irrigation districts – Hudson Bay District Improvement Company, Walla Walla River Irrigation District, and Gardena Farms Irrigation District #13 (hereinafter “Irrigation Districts”), entered into a Settlement Agreement to address potential civil liability for the take of listed Bull Trout in 1998 and 1999 resulting from the legal diversion of irrigation water from the Walla Walla River. The Civil Penalty Settlement Agreement (Agreement) has been amended three separate times. The current Agreement is set to expire in January 2007.

The draft EIS will analyze and compare potential environmental impacts associated with the proposed action of issuing incidental take permits to the Irrigation Districts and other interested parties, and other alternatives including a no-action alternative and issuance of incidental take permits with a lower level of take allowed.

### **III. Purpose and Need for Agency Action**

To avoid future liability, the Irrigation Districts, and/or other interested parties will be applying for incidental take permits pursuant to Section 10(A)(1)(b) of the federal ESA. The permits would be issued by the FWS for incidental take of Bull Trout and the NMFS for the incidental take of Summer Steelhead for # years. The Irrigation Districts will be preparing a draft habitat conservation plan (HCP) which will identify the conservation measures intended to minimize and mitigate impacts to these two listed fish species, resulting from the activities covered by the incidental take permit. Anyone withdrawing water from the Walla Walla River or its tributaries has the potential for take of the two listed species. Other applicants may join the process during the development of the HCP and EIS.

#### **Proposed Federal Action**

The proposed federal action is the issuance of incidental take permits (ITP's), pursuant to section 10(a)(1)(B) of the federal ESA for up to # years. Two ITP's would be issued to each applicant, one by NMFS for the take of summer steelhead and one by FWS for the take of bull trout in the Walla Walla River Basin.

#### **Purpose**

The purpose for which this EIS is being prepared is to analyze the impacts of the proposed action and other alternatives, in response to applications for ITP's related to activities that have the potential to result in take, pursuant to section 10(a)(1)(B) of the ESA and its implementing regulations and policies.

The ITP's will enable the Walla Walla River Irrigation District, Gardena Farms Irrigation District #13, Hudson Bay District Improvement Company, and other individual irrigators and local municipalities, to continue to remove water from the Walla Walla River Basin for purposes of irrigation or supplying municipal water in return for implementing various conservation measures.

#### **Need**

Under Section 9 of the ESA, unauthorized impacts to listed species (threatened or endangered) may constitute a take and are prohibited. The need for the proposed action is based on the potential that activities proposed by the Applicants could result in the take of steelhead or bull trout, thus providing the impetus for an ITP. Take of a listed species, that is incidental to otherwise lawful activities, can be authorized under Section 10 of the ESA with the preparation of an HCP and the issuance of an ITP. The HCP will establish acceptable levels of incidental take of steelhead and bull trout, which may occur as the unintended result of the permittees' covered activities, and conservation measures to ensure that permittees' covered activities will not appreciably reduce the likelihood of

survival or recovery of the species in the wild and will minimize and mitigate the impacts to listed species to the maximum extent practicable.

The need for the ITP is to provide for broader protection and conservation of the listed species under ESA while providing for long-term management of various irrigation practices on non-federal lands, water withdrawals for livestock, and providing a municipal water supply to local residents. Irrigation practices include, but are not limited to, diversion and conveyance of water for irrigation purposes, operation and maintenance of diversion facilities and irrigation ditches, and tail water discharges.

#### **IV. Summary of Scoping Process**

This section summarizes the scoping process the Services conducted for the EIS. Through the scoping process, the Services solicited input from the public, from federal and state agencies in Washington and Oregon, from the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), and from other interested parties regarding the scope of the EIS and the range of reasonable alternatives.

##### **A. Public and Agency Outreach and Notification**

The Services used a variety of means to notify the public and potentially interested parties to provide them with the opportunity to participate in the scoping process.

###### *Federal Register – Notice of Intent*

The Services' formal scoping process began on November 15, 2005 with the publication in the Federal Register of a *Notice of Intent to Conduct Public Scoping Meetings and to Prepare an Environmental Impact Statement Related to the Bi-State Water Diversion Habitat Conservation Plan for the Walla Walla River Basin* (70 Fed. Reg. 69348 [November 15, 2005]). The notice provided information on the project and EIS; announced the dates, times, and locations of four scoping meetings; indicated that comments could be mailed, faxed, or hand-delivered to FWS or NMFS through December 30, 2005; and provided the names, addresses, and telephone numbers to which comments could be mailed or faxed. Exhibit A is a copy of the Notice of Intent.

###### *Local Newspaper and Radio Announcements*

A legal notice was published in two local newspapers prior to the public scoping meetings. A legal notice appeared in the Walla Walla Union Bulletin on November 13, 2005; and the East Oregonian on November 12, 2005. Exhibit B is a copy of the Legal Notices from both papers.

A news release was sent to the following media outlets:

- Walla Walla Union Bulletin
- East Oregonian
- Waitsburg Times
- Dayton Chronicle
- Milton-Freewater Valley Herald

Exhibit C is a copy of the news release.

#### *Agency Notifications*

On November 10, 2005, a formal invitation to become a Cooperating Agency (32 CFR 1501.6 and 1508.5) was sent to potentially interested federal and state agencies in Oregon and Washington notifying them of the agency scoping meeting on November 17, 2005, and inviting them to attend the meeting. Exhibit D is a copy of the letter.

The letter was sent to the following agencies:

- U.S. Environmental Protection Agency, Region 10
- Oregon Department of Environmental Quality
- Oregon Water Resources Department
- Washington Department of Ecology
- Oregon Department of Fish and Wildlife
- Washington Department of Fish and Wildlife
- Army Corps of Engineers, Walla Walla District

Responses to the Cooperating Agency letter were received from:

- Oregon Department of Environmental Quality (declined)
- Army Corps of Engineers, Walla Walla District (declined)
- Washington Department of Fish and Wildlife (declined)
- Oregon Water Resources Department (declined)
- Washington Department of Ecology (declined)
- U.S. Environmental Protection Agency (declined)
- Oregon Department of Fish and Wildlife (accepted)

Exhibit D includes the responses to the cooperating agency letter sent by FWS/NMFS.

#### *Interested Party Notification*

On November 10, 2005, a *Dear Interested Party* letter was sent to all known interested parties. The letter gave the dates of the four scoping meetings (public, agency, and tribal); and included notification that comments would be accepted within 45 days of the Federal Register notice. The names, addresses, and telephone numbers for the Services' contacts were included in the letter. The letter was sent to representatives of the following organizations:

- Native Creek Society
- Washington Water Trust
- Kooskooski Commons
- Center for Environmental Law and Policy (CELP)
- Water Watch Oregon
- Washington Water Trust
- Walla Walla County Conservation District
- American Rivers

- Oregon Water Trust
- Columbia Conservation District

Exhibit E is a copy of the *Dear Interested Party* letter.

#### *Email Notification to Interested Parties*

On November 4, 2005 an email was sent to a number of interested parties. The subject of the email was “Save the Date – HCP NEPA Scoping Meetings”. A subsequent email was sent to this same group on November 10, 2005. The subject of the email was “Save the Date – HCP NEPA Scoping Meetings”. This email notified email addressees that the Services were publishing a federal register notice and that the meetings identified in the November 4, 2005 email would be held as scheduled. Notice was also given for a meeting on November 17, 2005 with the Native Creek Society. This meeting was subsequently canceled at the request of the Native Creek Society.

Exhibit F is a copy of the two email notifications.

#### *Website*

Walla Walla County placed a notification on their website listing the dates, times, and locations of the public scoping meetings. Exhibit G is a copy of the information as it appeared on their website.

The Upper Columbia Fish and Wildlife Office for the FWS posted notification on their website of the issuance of a news release and publication of a federal register notice for the scoping meetings. Exhibit H is a copy of their website.

### **B. Tribal Outreach and Notification**

The Services sent a letter to the Confederated Tribes of the Umatilla Indian Reservation on November 9, 2005. A meeting was scheduled for November 18, 2005, but needed to be rescheduled; the Services will consult with the CTUIR as planning proceeds. Exhibit I is a copy of the letter sent to the CTUIR.

### **C. Public Scoping Meetings**

The Services conducted two public scoping meetings. The first meeting was held on November 16, 2005 at the Washington Department of Transportation facility in Walla Walla Washington. Nineteen people signed the register at this meeting. Exhibit K is a copy of the power point presentation used at the public and agency meetings.

The second meeting was held on November 17, 2005 at the Milton-Freewater Public Library in Milton-Freewater, Oregon. Five people signed the register at this meeting. Both meetings were held from 7:00 – 9:00 pm.

The general format for the November 16th Meeting was as follows:

- Meeting attendees were asked to sign in upon their arrival.

- The Services provided various information including, but not limited to: (1) draft conservation measures, (2) purpose and need statement, (3) irrigation district fact sheets, (4) preliminary alternatives, (5) comment form, and (6) news release. Copies of the material are included as Exhibit J.
- FWS representative opened the meeting by giving a brief introduction on the purpose of the meeting.
- A Walla Walla County representative gave a brief overview of how the County and the Irrigation Districts became involved in the development of a HCP.
- A slide presentation was given on the purpose of the meeting, what is incidental take and HCP's, background information on how the need for an ITP and HCP came about, and the National Environmental Policy Act (NEPA) process.
- The Services opened the meeting to questions and comments. Participants were encouraged to ask questions and to provide suggestions regarding the scope of the EIS and the alternatives to be analyzed. Participants were also reminded that written comments could be submitted using the comment form provided at the meeting and comments would be accepted through December 30, 2005, the end of the comment period. At the conclusion of the meeting, representatives from FWS, NMFS, and the EIS team remained available for informal discussions until all meeting attendees left.

The general format for the November 17th meeting was as follows:

- Meeting attendees were asked to sign in upon their arrival.
- The Services provided various information including, but not limited to: (1) draft conservation measures, (2) purpose and need statement, (3) irrigation district fact sheets, (4) preliminary alternatives, (5) comment form, and (6) news release. Copies of the material are included as Exhibit J.
- A slide presentation was given on the NEPA process. Meeting participants were familiar with the HCP process and therefore this information was not provided.
- The Services opened the meeting to questions and comments. Participants were encouraged to ask questions and to provide suggestions regarding the scope of the EIS and the alternatives to be analyzed. Participants were also reminded that written comments could be submitted using the comment form provided at the meeting and comments would be accepted through December 30, 2005, the end of the comment period. At the conclusion of the meeting, representatives from FWS, NMFS, and the EIS team remained available for informal discussions until all meeting attendees left.

#### **D. Agency Meeting**

The agency scoping meeting took place on November 17, 2005, from 1:30 – 3:30 pm at the Washington Department of Transportation facility in Walla Walla Washington. The format for the meeting was as follows:

- Meeting attendees were asked to sign in upon their arrival.
- The Services provided various information including, but not limited to: (1) draft conservation measures, (2) purpose and need statement, (3) irrigation district fact sheets, (4) preliminary alternatives, (5) comment form, and (6) news release. Copies of the material are included as Exhibit J.
- NMFS opened the meeting explaining the meeting's purpose.
- A slide presentation was given on the NEPA process. Meeting participants were familiar with the HCP process and this information was not provided.
- The Services opened the meeting to question and comments. Participants were encouraged to ask questions and to provide suggestions regarding the scope of the EIS and the alternatives to be analyzed. Participants were also reminded that written comments could be submitted using the comments form provided at the meeting and comments would be accepted through December 30, 2005, the end of the comment period. At the conclusion of the meeting, representatives from FWS, NMFS, and the EIS team remained available for informal discussions until all meeting attendees left.

Of the seven agencies or organizations invited to attend, the following sent representatives:

- Oregon Department of Fish and Wildlife
- Oregon Department of Environmental Quality

Also in attendance were representatives from the following agencies and organizations:

- City of Walla Walla
- Walla Walla County
- Walla Walla Community College
- Walla Walla River Irrigation District
- Gardena Farms Irrigation District #13
- Hudson Bay District Improvement Company
- Walla Walla Basin Watershed Council
- Walla Walla Watershed Alliance
- Oregon Department of Agriculture

## **V. Public Scoping Results**

Written comments were accepted through December 30, 2005. Each of these comments was included in this analysis. Verbal comments included in this report are those voiced at the public and agency meetings. A total of eleven (11) written and seven (7) email responses were received, of which some were duplicates. Most submissions contained comments on multiple issues. The majority of the responses dealt with the water flow levels in the Little Walla Walla River and the spring water branches since 2000 when the Irrigation Districts began leaving water in the Walla Walla River as part of a settlement agreement with the FWS. Exhibit L is the written comments received. Exhibit M is the email comments received. Exhibit N is the public and agency comments received and the Services' responses to those comments.

Based on the internal scoping discussion and input received during the scoping process, the comments were categorized into the following categories.

- Abiotic
  - Air Quality
  - Municipal Water Supply
  - Hydrology/ Water Flow - Generally
  - Hydrology/ Water Flow – Little Walla Walla River
  - Surface/Groundwater Interaction/Recharge
  - Water Quality
  - Sedimentation
  - Source Water Protection Areas
- Biotic
  - Fish and Wildlife
  - Habitat
  - Threatened and Endangered Species
- Human Environment
  - Economics (loss of property rights – water, decrease in property values)
  - Environmental Justice
  - Roads
- NEPA
  - Scoping
  - Alternatives
  - EIS Process
  - Purpose and Need Statement
  - Cumulative Effects
  - Indirect Effects
- HCP
  - General
  - Conservation Measures
  - Take Analysis
  - Permit Duration
  - No Surprises
  - Take Coverage
  - Applicants

- Negotiations
- Implementation
  - Monitoring/Adaptive Management
- Agency/Tribal/Public Participation/Involvement
  - Tribal Consultation
  - Public Participation
- Other Conservation/Management Efforts
  - Conservation Efforts
  - Management Efforts
- General Comments

## **VI. Preliminary Alternatives**

The following four preliminary alternatives, including the no-action alternative were described in the Notice of Intent, and presented at the scoping meetings.

**Alternative 1: No Action Alternative** - Under the No Action Alternative, an ITP would not be issued and a HCP would not be implemented. The current FWS Settlement Agreement would continue through January 2007 and would need to either be extended or renewed for an additional time period, or end. If the Agreement is renewed, it could include additional in-stream flow requirements and/or other requirements. If the Agreement is not renewed or extended, then the districts could be open to enforcement actions due to ESA violations, and the stream could be dewatered again, as it was prior to 2001. Continued operational and capital improvements could be made by the districts.

**Alternative 2: Proposed Action Alternative** – The NMFS and the FWS would each issue ESA ITP’s, and full implementation of the HCP would occur. The HCP would include conservation measures specific to each applicant that would minimize and mitigate the impacts of their covered activities to the maximum extent practicable.

**Alternative 3: Programmatic HCP Alternative** - Under this alternative, independent irrigators, irrigation districts, ditch companies, and/or municipalities may participate in the HCP described under the Proposed Action Alternative. They would participate by either signing a Certificate of Inclusion that would cover their activities under another applicant’s permit, rather than developing a separate HCP; or through individual permits provided by each Service. If these future participants do not adopt the HCP described under the Proposed Action, it is possible that additional NEPA review would be required at the time their request for ESA coverage is received by the Services. If participants choose to adopt the HCP, a site-specific plan would be developed and approved by both Agencies. If the adoption includes modifications to the HCP, the Services would ensure that the NEPA review for the HCP included these conditions, and if not, would comply with NEPA to provide a review on such modifications.

**Alternative 4: Reduced Take Alternative** - Under this alternative the proposed HCP would be modified by changing or adding measures to further reduce the amount and risk of incidental take. These measures could include different conservation measures, covered species, covered lands, covered activities, and/or permit duration.

Additional project alternatives may be developed based on input received from the public scoping process.

The EIS will address the effects of each alternative on the significant resources identified during the scoping process. Not all of the categories above will be addressed in the EIS. For instance, air quality and road issues are not likely to cause or be affected by implementation of any of the alternatives identified above.

## **VII Resources to be Addressed in the EIS**

Resources to be addressed in the EIS were identified through external and internal scoping. Topics will include the following:

### Water Resources

- Municipal Water Supply
- Hydrology/ Water Flow - Generally
- Hydrology/ Water Flow – Little Walla Walla River and Spring Branches
- Surface/Groundwater Interaction/Recharge
- Water Quality/Quantity
- Sedimentation
- Source Water Protection Areas
- Wetlands

### Biotic

- Fish and Wildlife and their Habitat
- Vegetation Communities
- Threatened and Endangered Species/Critical Habitat for Threatened and Endangered Species (Fish, Wildlife, and Plants)

### Human Environment

- Economics (loss or decrease of water rights – decrease in property values)
- Legal protection of in-stream flows
- Environmental Justice
- Cultural Resources/Historic Properties/Tribal Resources

## **VII Summary of Future Actions**

NMFS and FWS will accept public input during the development of the HCP and EIS. All written public comments will become part of the administrative record. There will be many informal opportunities to comment at HCP meetings and other watershed meetings.

The next formal comment period will open when the notice of availability of the draft EIS and draft HCP are published. The lead agencies will circulate a notice of the draft EIS and draft HCP to interested parties. The draft documents will be available to the public on the FWS websites, and by request from the NMFS and FWS. The availability of the draft EIS will be announced by publication of a notice in the Federal Register, as well as other media such as local newspapers. Following the release of the drafts, there

will be a minimum of a 60-day public comment period and an opportunity for additional public meetings in the Walla Walla River basin.

At the conclusion of the public comment period, the draft EIS and draft HCP will be revised and the proposed final EIS and final HCP will be prepared. The availability of the proposed final EIS and HCP will be announced by publication of a notice in the Federal Register, at which time a 30-day public review period will commence. Notification will also be sent to persons who provided comments during the scoping process. Additionally, a public notice will be advertised in local papers. The final opportunity for public comment on the EIS will be this 30-day review period. At the end of the public review period, NMFS and FWS will file the final EIS with the Environmental Protection Agency and announce its availability in the Federal Register.