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United States Department of the Interior
FISH AND WILDLIFE SERVICE
Snake River Fish and Wildlife Office
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FEDERAL ENERGY
REGULATORY
COMMISSION

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Subject: ER #04-516, Buffalo River Hydroelectric Project, Fremont County, Idaho
-- Comments on Draft Environmental Assessment and Concurrence
FERC #1413-032 OALS #04-0529

Dear Secretary Salas:

The Fish and Wildlife Service (Service) is writing to provide comments on the draft Environmental Assessment (DEA) for the subject proposed project. We received the DEA on July 12, 2004. The Fall River Rural Electric Cooperative, Inc., (Applicant) proposes to continue to operate the existing subject project located on the Buffalo River near its confluence with the Henry's Fork River in Fremont County, Idaho. The Applicant filed an application to relicense the existing project with the Federal Energy Regulatory Commission (Commission) on October 30, 2002. The Service is providing comments pursuant to our authorities under the Federal Power Act (FPA), as amended (16 U.S.C. 791 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), and the Endangered Species Act (Act) of 1973, as amended (15 U.S.C. 1531 et seq.).

Based on our review of the DEA, the Service supports the Commission's staff recommended alternative. This alternative incorporates and is consistent with our section 10(j) recommendations as submitted by the Department of Interior (Department) in a letter filed January 20, 2004, and acknowledges the Department's reservation of authority under section 18 of the FPA. The staff recommended alternative includes several measures aimed at protecting and enhancing environmental resources in the project area. These measures include:
1) constructing a new concrete intake structure with a fish screen; 2) constructing and continuously operating a fishway designed to pass age 0 (young of year) trout; 3) limiting all in-water construction activities to the months of August through October; 4) monitoring and documenting fishway use and efficiency; 5) monitoring the effectiveness of the fish screen; and, 6) sealing the upstream face of the dam to prevent entrainment of trout into leakage areas. Several additional environmental measures are included in the recommended alternative; these are outlined in detail in the DEA.

Threatened and Endangered Species Consultation

On July 16, 2004, we received a separate transmittal of the DEA, requesting that it serve as a Biological Assessment for purposes of consultation under section 7 of the Act. You requested concurrence with your determination that the new license for operation, and associated project activities may affect, but are not likely to adversely affect the threatened bald eagle (*Haliaeetus leucocephalus*), Canada lynx (*Lynx canadensis*), or grizzly bear (*Ursus arctos*), and will not jeopardize the continued existence of the gray wolf (*Canis lupus*). With this letter we are providing concurrence with your determinations. We acknowledge your conclusion that the project will not affect the Utah valvata snail (*Valvata utahensis*) or Ute ladies'-tresses (*Spiranthes diluvialis*).

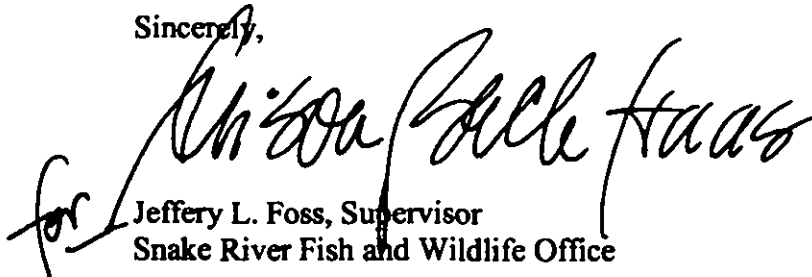
Based on the information provided in the DEA, we concur with your determination that the project is not likely to adversely affect bald eagles. There are four bald eagle nesting territories in the vicinity of the project area, and bald eagles are also known to use the Henry's Fork as feeding grounds during the winter months. Construction and other human activity associated with proposed project modifications have the potential to disturb bald eagles. However, because the project construction activities will occur only between August and October, they are not expected to have any measurable adverse impact on either nesting bald eagles or those wintering in the area. Bald eagles using the project area for foraging activities between August and October may experience some level of disturbance due to noise and human activity. However, given that this time period is relatively short in duration, is outside the critical reproductive and wintering life history stages, and the fact that Island Park Reservoir (less than 0.5 mile upstream of the project on the Henry's Fork) will continue to provide quality foraging habitat through this period, any disturbance associated with the construction activity is not expected to result in a significant disruption of normal behavior patterns for bald eagles. Continued operation of the project for the term of the new license is not expected to have any adverse impacts to bald eagles.

We also concur with your determinations for Canada lynx and grizzly bear. Although there is potential habitat in the project area for both of these species, actual use is speculative, and if it does occur, is infrequent. Given the small area and short duration of actual disturbance associated with proposed project modifications, the Service does not expect any measurable impacts to either Canada lynx or grizzly bear. Continued operation of the project for the term of the new license is not expected to have any measurable adverse impacts to Canada lynx or grizzly bears.

Gray wolves in the area are part of an experimental, non-essential population, and such are treated as a proposed species under section 7 of the Act. Although individual gray wolves may pass through the project area on occasion, there are no known den or rendezvous sites nearby. Continued project operation and activities associated with proposed project modifications are not expected to adversely affect breeding, feeding, or sheltering activities for gray wolves that may be in the area, and will not jeopardize the continued existence of the non-essential population.

This concludes consultation for the relicensing of the Buffalo River hydroelectric project, including proposed project modifications, under section 7 of the Act. The Service appreciates the Applicant's cooperative approach, and looks forward to continued discussions regarding this project. If you have any questions regarding our comments, please contact Michael Morse at (208) 378-5261 or Kendra Womack at (208) 685-6955.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffery L. Foss". The signature is written in a cursive style and is positioned above the printed name and title.

for Jeffery L. Foss, Supervisor
Snake River Fish and Wildlife Office

- cc: FWS, Chubbuck (Deb Mignogno)
DOI-OEPC, Washington D.C. (Sheila Huff)
CTNF, Idaho Falls (Lee Mabey)
IDFG, HQ-Boise (Scott Grunder)
IDFG, Idaho Falls (Gary Vecellio)
NW Power Services, Inc., Rigby (Brent Smith)