DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
RIN 0648–XA668
Notice of Availability of Proposed Low Effect Habitat Conservation Plan for Tumalo Irrigation District’s Tumalo Conservation Project

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; receipt of application.

SUMMARY: NMFS advises interested parties of Tumalo Irrigation District’s (TID) application for an incidental take permit, pursuant to the Endangered Species Act of 1973, (ESA). The requested 50-year permit would authorize the incidental take of Middle Columbia River Steelhead in the Deschutes River basin that may occur from irrigation activities and construction of water conservation projects implemented by TID. NMFS is requesting comments on the permit application and on Tumalo Irrigation District’s low effect Habitat Conservation Plan (HCP). The application and HCP are available for public review.

DATES: Written comments must be received no later than 5 p.m. Pacific Standard Time on October 20, 2011.

ADDRESSES: All comments concerning the proposed issuance of an incidental take permit and the HCP should be addressed to: Scott Carlon, National Marine Fisheries Service, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232, facsimile number 503–231–2318. Comments may be submitted by e-mail to the following address: TumaloHCP.nwr@noaa.gov. In the subject line of the e-mail, include the document identifier: Tumalo Irrigation District HCP.

FOR FURTHER INFORMATION CONTACT: Scott Carlon, NMFS (503) 231–2379.

SUPPLEMENTARY INFORMATION:
Availability of Documents
Individuals seeking copies of the proposed HCP should contact NMFS by telephone (see FOR FURTHER INFORMATION CONTACT) or by letter (see ADDRESSES). Copies of the subject documents also are available for public inspection during regular business hours at NMFS’ Hydropower Division Office (see ADDRESSES) and are available at the following Web site: http://www.nwr.noaa.gov.

Statutory Authority
Section 9 of the ESA prohibits the taking of any listed species. The definition of “take” under the ESA (16 U.S.C. 1532(19)) includes to harass, harm, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct. NMFS’ definition of “harm” includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (64 FR 60727, November 8, 1999).

Section 10 of the ESA and implementing regulations specify requirements for the issuance of incidental take permits (ITP) to non-Federal entities for the incidental take of endangered and threatened species. NMFS’s regulations governing permits for incidental taking of threatened and endangered species are at 50 CFR 222.307. Any proposed take must be incidental to otherwise lawful activities, not appreciably reduce the likelihood of the survival and recovery of the species in the wild, and minimize and mitigate the impacts of such take to the maximum extent practicable. In addition, the applicant must prepare and submit an HCP describing the impact that will likely result from such taking, the conservation measures to minimize and mitigate the take, the funding available to implement such steps, alternatives to such taking, and the reason such alternatives are not being implemented.

Background
The Tumalo Irrigation District (TID) is an 8,200-acre irrigation project located northwest of Bend in Deschutes County, Oregon. TID is seeking a permit from NMFS for the incidental take of ESA-listed Middle Columbia River (MCR) steelhead (Oncorhynchus mykiss) that are being reintroduced into historic habitat downstream of TID. The ITP would provide ESA regulatory certainty for TID’s existing operations and proposed water conservation projects providing that TID meets the permit conditions. Existing operations included in the HCP as covered activities include the diversion of flow from Tumalo Creek and the Deschutes River, maintenance activities associated with diversion structures and conveyance systems, and water conservation projects including piping portions of the irrigation canals.

TID has a total water right of 211.25 cubic feet per second (cfs) and diverts water from two locations: Tumalo Creek...
stored water rights in Crescent Lake Reservoir and will be used by the State of Oregon to supplement flows in Crescent Creek and the Deschutes River.

To improve monitoring of its diversion rates, TID will replace an existing flow and temperature measurement structure located in Tumalo Creek downstream of the Tumalo Feed Canal diversion. The existing structure does not give accurate measurements when flows are high. TID will also install a meter in the Tumalo Feed Canal downstream of its confluence with the Bend Feed Canal to measure the combined diversion rate. TID will submit yearly progress reports to NMFS and the Oregon Department of Fish and Wildlife.

Historically, MCR steelhead did not occur in Tumalo Creek or the reach of the Deschutes River where TID diverts water. The upstream limit for anadromous fish, including MCR steelhead, in the Deschutes River was Big Falls at about river mile 132 (river km 212.4). Tumalo Creek enters the Deschutes River roughly 28 river miles (45.1 km) upstream of Big Falls and the Deschutes River diversion is about 33 river miles (53.1 km) above Big Falls. MCR steelhead are not being reintroduced above this natural barrier. NMFS may approve the HCP as a low effect HCP, as provided in the Habitat Conservation Planning Handbook (NMFS and USFWS 1996). Determination of low effect HCPs is based upon the plan having: Minor or negligible effects on Federally-listed, proposed, or candidate species and their habitats; minor or negligible effects on other environmental values or resources; and, impacts that considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects would not result, over time, in cumulative effects to the environmental values or resources which would be considered significant. If the plan qualifies as a low-effect HCP, the NEPA consideration would be covered by a categorical exclusion, and NMFS would not need to conduct further analysis.

Request for Comments

If you wish to comment on the permit application or the HCP, you may submit your comments to the address listed in the ADDRESSES section of this document. We will evaluate this permit application, associated documents, and comments submitted to determine whether to issue the permit. All comments received are a part of the public record and will generally be posted to http://www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. We will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

If we determine that the legal criteria are met, we will issue an incidental take permit under section 10(a)(1)(B) of the ESA to the TID for take of the proposed covered species, incidental to otherwise lawful activities in accordance with the terms of the permit. We will not make our final decision until after the end of the 30-day comment period, and will fully consider all comments received during the comment period. NMFS provides this notice pursuant to section 10(c) of the ESA and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Dated: September 15, 2011.

Therese Conant,
Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF EDUCATION
Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13). DATES: Interested persons are invited to submit comments on or before October 20, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to oira_submission@omb.eop.gov with a cc: to ICDOcketMgr@ed.gov. Please note that written comments received in response to this notice will be considered public records.