



Montana Fish, Wildlife & Parks

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October 12, 2010

Independent Scientific Review Panel
for the Northwest Power & Conservation Council
851 SW 6th Avenue, Suite 1100
Portland, Oregon 97204

To Whom it May Concern:

I want to thank the Independent Scientific Review Panel (ISRP) for their expeditious and thoughtful review of our Montana Accord Proposal, *Secure and Protect Core Fisheries Habitats within the Swan River Valley* (#2008-800-00). It is clear from the comments we received that the ISRP faces the same challenge we do to adequately establish and evaluate the “science” underpinning anticipated fish conservation benefits that common experience suggests we can achieve by strategically appropriate real estate acquisitions. We found that the ISRP comments and requests for more information provided valuable guidance to us to better detail the proposal under current review. We hope our response here is helpful in that regard. This guidance will of course be equally helpful in framing new proposals in a manner that better assists the ISRP with future project evaluations.

Your request for response asked that we provide more background information on the status of two fish species, bull trout (*Salvelinus confluentus*) and westslope cutthroat trout (*Oncorhynchus clarki lewisi*); a clearer statement of the scientific rationale for parcel selection; the protection priority given the Swan Valley in recovery, management, or sub-basin plans; and metrics to evaluate the consequences and effectiveness of land acquisitions intended to benefit fish, as well as a monitoring plan by which this information would be collected. Our response to these requests follows.

Response Requested

1. More background information regarding the status of the two focal fish species specifically related to scales of a) major population group (MPG), b) distinct population segment (DPS), and c) local watershed.

Bull trout

Bull trout in Montana were first listed under the Endangered Species Act (ESA) as a threatened species on June 10, 1998 (63 FR 31647). By November 1, 1999, listing for this species had been expanded to include the rest of the coterminous bull trout population in the United States (64 FR 58909). Listing acknowledged that, across its range, a number of factors threaten the ability of the bull trout to maintain its current distribution over time. These factors include habitat loss associated with a variety of human activities, threats from the introduction of exotic species (predation, hybridization, competition for space and food), and the effects of angler harvest, including historic over-harvest, incidental, and illegal catch. To differing degrees, all of these factors remain primary threats to bull trout persistence throughout its current range.

With the listing of bull trout, recovery classifications associated with this species have been continuously refined (a brief history of this process is included for you as Attachment 1, below). After several attempts using other numbers, the United States Fish and Wildlife Service (USFWS) finally chose a single Distinct Population Segment (DPS) for the entire bull trout population within the United States. Within this DPS, six Recovery Units (RU) were identified, two of which occur in Montana: the Columbia Headwaters RU, and the Saint Mary RU. The Columbia Headwaters RU includes bull trout in Montana west of the continental divide. This RU is deemed by the USFWS to be essential to bull trout conservation

“...because populations are significantly different at the mitochondrial DNA level from the two RUs west of the Cascade Range and at the microsatellite DNA level from the three other RUs east of the Cascade Range; they are mostly isolated from other RUs in the headwaters of the Columbia River basin by ancient waterfalls downstream; most populations occur in the adfluvial migratory form; they evolved in the absence of anadromous salmonids; they occur inland in a cooler and drier climate and different vegetative conditions than the two RUs west of the Cascade Range and the Mid-Columbia RU; loss of this RU would result in a significant gap in the range of bull trout; and populations within each of three different, isolated watersheds have or could have a shared evolutionary future by migrating among populations over long periods of time. (USFWS 2009).

Within the current bull trout DPS, the USFWS has designated 32 Critical Habitat Units (CHUs), each broken down further into a total of 99 Critical Habitat Sub-Units (CHSUs). The lands in our proposed acquisition all occur in the Clark Fork Basin CHU. Within that

CHU, the Swan Lake and river system is uniquely identified as its own CHSU This CHSU is deemed by the USFWS to be essential to bull trout conservation, in part,

“... because this CHSU has historically been robust bull trout resource in Montana and includes three lakes, each with a separate bull trout core population, that share an interconnected system of spawning and rearing streams. An extensive network of high-quality spawning and rearing habitat, with strong groundwater influences, historically contributed to the strong bull trout population in the watershed and may enable this CHSU to remain one of the more resistant systems under changing climate scenarios. (USFWS 2009).

Augmenting the security of habitat supporting bull trout in the Swan Valley by purchasing private timber lands and placing them in public ownership that includes enhanced conservation easement protections for streams and near stream areas could of course significantly contribute to persistence and stability of the larger Clark Fork Basin CHU, the Columbia Headwaters RU, and the bull trout DPS, respectively. This assertion becomes more meaningful considering the current status of bull trout within the local Swan Valley watershed itself.

We concur with the USFWS that, among populations of bull trout in Montana, the Swan Valley group is particularly robust, by which we mean that indices of abundance and reproductive success (primarily redd counts, and electro-fishing estimates of juvenile abundance) consistently yield similar high numbers each year (e.g., Weaver 2006). Variations occur over time, of course, including variation in individual streams (e.g., Figure 2, Table 1). However, the population remains sufficiently intact and

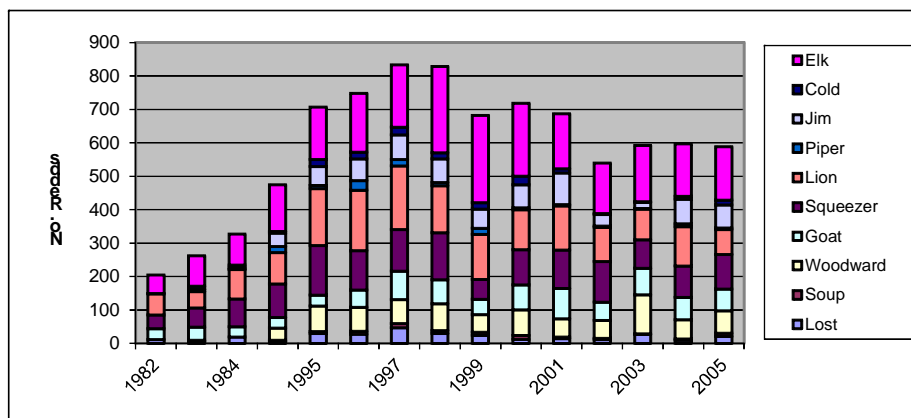


Figure 2. Bull trout redd numbers observed during basin-wide counts in the Swan River Drainage from 1982 through 2005. Adapted from Weaver 2006.

Table 1. Swan Valley bull trout spawning site inventories from 1982-2009 for tributary streams upstream from Swan Lake. Adapted from Weaver 2006, including updates through 2009. For methodologies, see Fraley and Weaver 1991.

| Drainage | 1982 | 1983 | 1984 | 1985 | 1986 | 1987 | 1988 | 1989 | 1990 | 1991 |
|----------|-------------------|-------------------|-------------------|--------------------|-------------------|-------------------|--------------------|-------------------|-------------------|------|
| Lost | 11 | 7 | 19 | -- | -- | -- | -- | -- | 13 ^{a/} | 6 |
| Soup | -- | -- | -- | -- | -- | -- | -- | -- | -- | 4 |
| Woodward | -- | 5 | -- | -- | -- | -- | -- | -- | -- | 44 |
| Goat | 33 | 39 | 31 | 40 | 56 | 31 | 46 | 34 | 27 | 31 |
| Squeezer | 41 | 57 | 83 | 24 | 55 | 64 | 9 ^{b/} | 67 | 42 | 101 |
| Lion | 63 | 49 | 88 | 26 | 46 | 33 | 65 | 84 | 58 | 94 |
| Piper | 0 | 0 | 1 | -- | -- | -- | -- | 25 | -- | 18 |
| Jim | -- | 7 | 6 | -- | -- | -- | -- | 39 | 22 | 40 |
| Cold | 1 | 9 | 6 | -- | -- | -- | -- | -- | -- | 5 |
| Elk | 56 | 91 | 93 | 19 ^{b/} | 53 | 162 | 201 | 186 | 136 | 140 |
| Total | 205 ^{a/} | 264 ^{a/} | 327 ^{a/} | 109 ^{ab/} | 210 ^{a/} | 290 ^{a/} | 321 ^{ab/} | 435 ^{a/} | 298 ^{a/} | 483 |

| Drainage | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 |
|----------|-------------------|-------------------|-------------------|------|-------------------|-------------------|------|--------------------|-------------------|-------------------|
| Lost | -- | -- | -- | 30 | 28 ^{a/} | 47 ^{a/} | 30 | 24 ^{a/} | 12 ^{a/} | 14 ^{a/} |
| Soup | 2 | 4 | 2 | 5 | 8 | 12 | 8 | 9 | 12 | 5 |
| Woodward | 8 ^{a/} | -- | -- | 96 | 72 ^{a/} | 72 | 81 | 53 ^{a/} | 76 ^{a/} | 55 ^{a/} |
| Goat | 17 | 64 | 66 | 32 | 52 | 85 | 71 | 46 | 75 | 91 |
| Squeezer | 115 | 106 | 91 | 149 | 117 | 125 | 141 | 59 ^{b/} | 105 | 114 |
| Lion | 100 | 123 | 141 | 170 | 181 | 190 | 141 | 135 | 120 | 132 |
| Piper | -- | -- | -- | 10 | 29 | 19 | 9 | 18 | 6 | 4 |
| Jim | 45 | 43 | 53 | 56 | 65 | 74 | 71 | 58 | 69 | 95 |
| Cold | -- | -- | -- | 21 | 20 | 23 | 18 | 19 | 25 | 12 |
| Elk | 143 | 139 | 195 | 157 | 176 | 186 | 259 | 261 | 219 | 165 |
| Total | 430 ^{a/} | 479 ^{a/} | 548 ^{a/} | 726 | 748 ^{a/} | 833 ^{a/} | 829 | 682 ^{ab/} | 719 ^{a/} | 687 ^{a/} |

| Drainage | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
|----------|-------------------|-------------------|--------------------|--------------------|-------------------|-------------------|--------------------|------|
| Lost | 11 ^{a/} | 27 ^{a/} | 10 ^{a/} | 21 ^{a/} | 26 ^{a/} | 25 ^{a/} | 14 ^{a/} | 19 |
| Soup | 4 | 2 | 3 | 10 | 12 | 11 | 3 | 5 |
| Woodward | 54 ^{a/} | 116 ^{a/} | 58 ^{a/} | 67 ^{a/} | 69 ^{a/} | 114 | 92 | 58 |
| Goat | 54 | 80 | 67 ^{b/} | 65 | 62 | 75 | 69 | 72 |
| Squeezer | 122 | 85 | 94 ^{b/} | 103 | 113 | 123 | 59 ^{c/} | 60 |
| Lion | 102 | 92 | 117 ^{b/} | 75 ^{c/} | 136 | 136 | 92 | 100 |
| Piper | 4 | 2 | 9 | 4 | 3 | 16 | 6 | 0 |
| Jim | 35 | 18 | 74 | 69 | 51 | 68 | 80 | 28 |
| Cold | 2 | 2 | 8 | 15 | 6 | 7 | 8 | 5 |
| Elk | 152 | 168 | 157 ^{b/} | 159 ^{c/} | 178 | 187 | 175 | 134 |
| Total | 540 ^{a/} | 592 ^{a/} | 597 ^{ab/} | 588 ^{ac/} | 656 ^{a/} | 762 ^{a/} | 598 ^{ac/} | 481 |

a/ Counts may be low due to incomplete survey.

b/ High flows may obliterated some redds.

c/ Minimum count due to poor conditions during survey.

reproductively successful (e.g., Figure 2), that a continued recreational harvest has been allowed by the USFWS in coordination with Montana Fish Wildlife and Parks (MFWP) ever since and even after the species was first listed (USFWS 2009). We note also that Woodward Creek, a stream on project lands, is the last of the key bull trout streams in listed in Table 1 that lacks significant conservation protections that accrue from public ownership. Our project includes providing these protections as well.

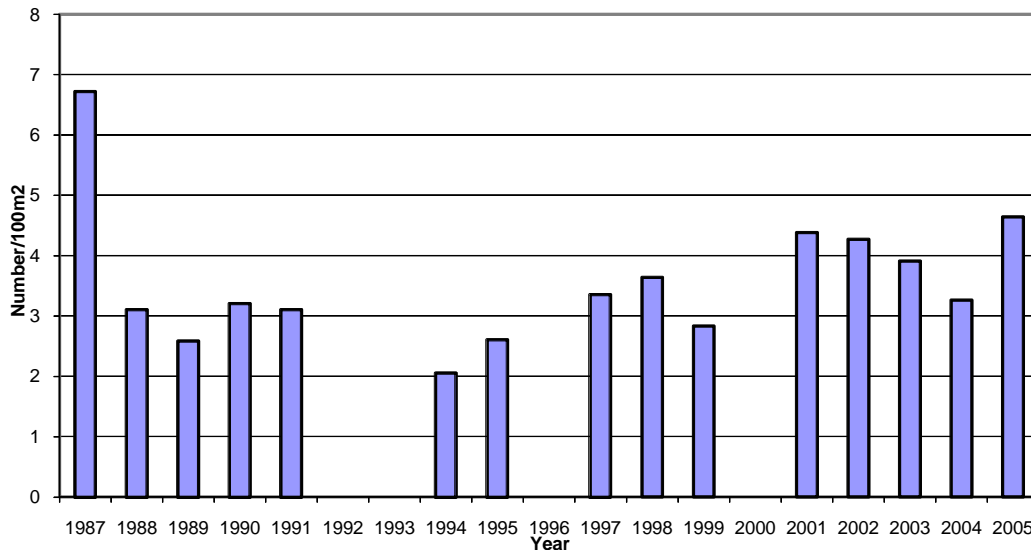


Figure 2. Average densities of Age I and older bull trout calculated from electrofishing in index sections of Swan Lake nursery streams (Elk, Goat, Squeezer, and Lion Creeks) from 1987 through 2005. Zero values are years for which no estimate is available. Adapted from Weaver 2006.

Bull trout in the Swan Valley are further characterized by partial isolation from other bull trout populations in this region. To complete their life cycle within the Swan drainage, fish must remain above Bigfork Dam, a hydro power facility located about one mile upstream from the Swan River mouth that blocks upstream fish migration. Successful reproduction, intact habitat, partial isolation, and their relative and continued abundance, are all factors that contributed to our determination that the Swan Valley land acquisitions we propose here would significantly secure critical stream habitat, and thereby protect the bull trout’s ability to perpetuate itself over time. From the standpoint of using land acquisitions as a tool for fish conservation, bull trout in our Swan Valley proposal are an example of using this tool to protect and retain something that is “working”. I will revisit use of this tool from a different perspective for the westlope cutthroat trout, below.



Westslope Cutthroat Trout

The westslope cutthroat trout (WCT) is one of fourteen recognized cutthroat sub-species occurring in a broad range across the western hemisphere. Current distribution of WCT outside Montana includes varying numbers in southeastern British Columbia, southwestern Alberta, Idaho, Wyoming, Washington, and Oregon. In Montana the species historically was found in all areas west of the Continental Divide, and also in the Headwaters of the Missouri River. Range wide distribution of WCT is greatly reduced from what is believed to be its historic distribution (e.g., USFWS 1999). Estimates vary, but in Montana, WCT may now occupy as little as 19 to 27 percent of their historic range (Van Eimeren 1996). Hybridization with other species and habitat loss, including degradation, are among the most common causes offered to explain this species decline (e.g., Mayhood 1999, and numerous other examples).

WCT have been petitioned for listing as a threatened species under the ESA, but the USFWS has never ruled that such listing is warranted (e.g., USFWS 1999). WCT are currently recognized in Montana as a species' of special concern, a status that acknowledges concern for this species persistence. In the local Swan Valley watershed, unlike bull trout, WCT are struggling to maintain their current distribution. Introgression with rainbow trout is widespread throughout the Swan Valley, and it appears that un-hybridized WCT occur now primarily as resident, often low density populations in tributaries of the Swan River. These populations are frequently found above a naturally occurring, or sometimes artificial, fish passage barrier (Weaver 2006). For these reasons, in this instance, our proposed Swan Valley acquisitions are intended to help secure the landscape essential to recovery of a species that is struggling within the drainage. This landscape-based approach to protecting diverse fish habitats is essential when relying as we do on natural habitats and natural reproduction to drive and sustain fish production. Somewhat in contrast to our bull trout objectives, then, where we hope to secure and protect landscapes in which fish populations are doing well, our use of land acquisitions as a tool for fish conservation in the case of WCT illustrates an additional benefit that land acquisitions can also help secure the opportunity for struggling fish populations to recover. We certainly hope that this is so.

2. A clearer statement of scientific rationale for the particular parcels to be acquired in relation to life histories of the focal species and of watershed ecological function.

As the ISRP undoubtedly knows, parcel selection for this project is driven by many factors in addition to its scientific rationale. Nonetheless, we do try to maximize benefits to fisheries from these acquisitions based on sound ecological considerations. Our goal to perpetuate key bull trout and westslope cutthroat trout fisheries, for example, purposefully relies on a strategy to preserve natural habitats and natural reproduction first. Tactics for preserving both are many, but include protective easements and land acquisitions that help maintain a diversity of lake, river, and small stream habitats, each of which supports different life-history stages of these fish. The Swan River, about 3.8 km of which occurs on project lands, for example, links over-wintering habitat in Swan

Lake to spawning and rearing habitats in major tributaries that are critical to survival of eggs, fry, and fingerlings of both species of fish. In addition to adfluvial fish, the Swan River and upper reaches of Woodward Creek also support all life-history stages of locally resident westslope cutthroat trout. Another 0.8 km of tributary habitat in Whitney and Whitetail Creeks on projects lands provide substrate, food, and cover for resident westslope cutthroat trout. And MFWP biologists have confirmed that Woodward Creek and its tributary to the south, South Woodward Creek, support a significant portion (12%) of the annual bull trout production in the Swan River drainage based on the proportion of the total redds surveyed each year. So protecting habitat that supports fish at different life stages is a significant part of our scientific rationale for the specific parcels we propose to protect through easement or acquisition. Larger watershed benefits that accrue from land conservation on this scale are also realized in protecting water quality and stream substrate conditions favorable to reproduction of these fish. Preserving, protecting, and enhancing biological and hydrological processes that preserve fish habitat health and function therefore are also factors we considered in our parcel selection.

3. The protection prioritization of the chosen watersheds for bull and west-slope cutthroat trout in state or federal recovery, management, or subbasin plans.

Note: We chose to highlight four relevant examples to illustrate the high priority given to protecting the Swan drainage at the federal, state, and local levels. These examples share a common emphasis to protect, conserve, and enhance bull trout and WCT populations.

- 1) The Swan Valley including Swan Lake and the Swan River is identified as a Critical Habitat Sub-Unit by USFWS with respect to bull trout recovery.
- 2) The state of Montana recognizes both bull trout and westslope cutthroat trout as highest priority species to conserve in all of its cold water species planning documents. Both are designated species of special concern.
- 3) Montana's State Assessment of Forest Resources (an analysis required of each state for the 2008 Farm Bill) placed the Swan drainage including streams on project lands in the highest category for fish and wildlife habitat value based on a data composite from MFWP's Crucial areas Planning System.
- 4) The Flathead River Subbasin plan identified the Swan River watershed as including highest priority Class 1 waters for bull trout in the Swan River, however the plan also listed a lower priority Class 2.5 water in the Swan for WCT. Class range depended largely on the presence or absence of competing non-native species. We note also that the Swan drainage, partially isolated by Bigfork Dam from the larger Flathead drainage, is considered "offsite" in terms of Hungry Horse mitigation. For this reason, activities in the Swan Valley were given lower priority than in the Flathead system proper. However, the fact that Plum Creek Timber parcels are only available

for purchase now in the Swan Valley establishes their a much higher conservation priority at this time.

4. Metrics that can be used to evaluate the acquisition in terms of watershed ecological function and fish species status, and a monitoring plan to collect and evaluate the metrics. The response should also give some indication of the crediting provided for the losses attributed to the Hungry Horse mitigation.

The ISRP very appropriately identifies here what we admit is a genuine challenge and deficiency in our proposal. Frankly, we struggle with how best to evaluate the actual effectiveness of acquiring property interests in terms of achieving conservation goals for fish. Fish population status is one component of that evaluation. We would expect at a minimum to maintain current fish abundance and geographic distributions. To date, MFWP has actively monitored bull trout status in the Swan Valley for over 20 years, relying on indices of redd counts and juvenile fish abundance in tributary streams. These indices are coordinated with assessments of substrate conditions whenever field surveys have been conducted. A program of regularly visiting important bull trout streams each year augmented by a broader survey of all bull trout streams within the basin every five years or so has established a good baseline of information against which new surveys can be compared. Substrate methodologies are perhaps most helpfully described in Weaver and Fraley 1991, a copy of which we have made available as an attachment in Pisces. Population methods are referenced in Weaver 2006, a copy of which we have also made available to you as an attachment in Pisces. Initially we plan to continue these surveys, of course. We will also need to implement a more rigorous WCT sampling protocol on project lands, essential to quantifying baseline conditions. To date these surveys have been made only sporadically. Although easily amenable to long-term monitoring efforts, no WCT survey plan is finalized now with the specific objective of monitoring population status in relation to watershed functions in mind.

Evaluations of watershed ecological function, at this point, will likely include vegetation and stream channel surveys with metrics of stream dimension (cross section and longitudinal profiles) and vegetation cover (amounts, types) incorporated in initial baseline assessments. Monitoring thereafter at this point is anticipated to take on the regularity of a broader monitoring package intended to determine and protect compliance with terms of the acquired habitat conservation easements. Final monitoring plans will not be developed, however, until baseline inventories are completed and we have better information from which to determine an effective monitoring approach. Although land acquisitions to support wildlife populations are a common and well established conservation technique, using land acquisitions to support fish conservation is relatively new for our program. At this point we are very open to any experienced suggestions.

Crediting to BPA is not tied to any performance measures including landscape or fish response to proposed real estate acquisitions. This was done intentionally to avoid

confounding issues of appropriate metrics, their quantification, and meaningful evaluation over time, exactly the difficulties highlighted by the ISRP in this specific response request for similar information from us. Instead, BPA receives credit against the agreed upon Montana loss statement for Hungry Horse Dam on the basis of the amount of funding contributed to the project acquisitions. The loss statement was expressed in terms of kilometers of stream lost above Hungry Horse Dam due to reservoir inundation (MFWP and CSKT 1991). By terms of the Memorandum of Agreement implementing the 2008 Montana Fish Accord, BPA receives 1 km credit against a total loss of 125.8 km for each \$1 million contributed to the purchase of real property interests.

Some final remarks:

We respect and understand that our response to item 4 will not likely satisfy the ISRP's real concern that an appropriate monitoring program is developed prior to land acquisitions being completed. I can only emphasize that we appreciate that concern, we have struggled with the issue, and we have every intention to resolve outstanding needs regardless of when a land transfer might occur. Our primary goal with this project is natural resource conservation, including fish. We desire as much as anyone to be able to demonstrate success.

We also note that we are not able here to address individual comments from reviewers although each was extremely helpful and very much appreciated. I have included a newer map to help better identify the project lands we seek to conserve (Attachment 2). I tried also to capture in photos some of the diversity of aquatic habitats within the project area (Attachment 3)

We thank you again for your time, consideration, and further review. Our projects are only improved by your many contributions

Most Sincerely,

Joel Tohtz

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Attachment 1: Bull trout listing history 1992-2009

Adapted from source: United States Department of the Interior IDAHO FISH AND WILDLIFE OFFICE 1387 S. Vinnell Way, Room 368 Boise, Idaho 83709

October 30, 1992

The Service received a petition to list bull trout as an endangered species throughout its range from the Friends of the Wild Swan, Alliance for the Wild Rockies, and the Swan View Coalition.

January 7, 1993

The Service received a second petition requesting the listing of bull trout in the Klamath River Basin from the Oregon Chapter of the American Fisheries Society.

May 17, 1993

The Service published in the Federal Register a 90-day petition finding determining that the petitioners had provided substantial information indicating that listing of bull trout may be warranted (58 FR 28849).

June 10, 1994

The Service published in the Federal Register a 12-month finding that listing was warranted for bull trout within the coterminous United States, but precluded by other higher priority work. Due to the lack of information, the Service found that listing bull trout in Alaska and Canada was not warranted (59 FR 30254).

November 1, 1994

Two of the petitioners, Friends of the Wild Swan and Alliance for the Wild Rockies, filed a lawsuit challenging the June 1994 finding.

June 12, 1995

The Service published in the Federal Register the June 10, 1994, conclusion that listing was still warranted but precluded (60 FR 30825).

June 22, 1995

The U.S. District Court of Oregon issued an order declaring the 1994 challenge to the original finding moot because the Service had issued a 1995 finding. The court instructed the plaintiffs to amend their complaint to challenge the 1995 finding if they so desired. The plaintiffs declined to amend their complaint and instead filed an appeal with the Ninth U.S. Circuit Court of Appeals.

April 2, 1996

The Ninth U.S. Circuit Court of Appeals overturned the U.S. District Court in Oregon and remanded the case to the District Court for further proceedings.

November 13, 1996

The U.S. District Court of Oregon granted the plaintiffs' motion for summary judgment, directing the Service to reconsider the 1994 finding and respond to the court within four months. The ruling included specific direction to consider only the information in the Service record at the time of the original 1994 finding.

March 13, 1997

In compliance with the District Court order, the Service issued a reconsidered finding based solely on the 1994 record, which concluded that two population segments of bull trout warranted listing (Klamath River and Columbia River population segments).

March 25, 1997

Plaintiffs petitioned the court to compel the Service to issue a proposed rule within 30 days to list the Klamath and Columbia River bull trout populations based on the 1994 record.

April 11, 1997

The Service and the plaintiffs signed an agreement stipulating that within 60 days the Service would complete a proposed rule to list the Klamath River population segment as endangered and the Columbia River distinct segment as threatened.

June 13, 1997

A proposed rule to list the Klamath River basin bull trout population segment as endangered and the Columbia River population segment as threatened was published in the Federal Register by the Service (62 FR 32268).

December 4, 1997

The U.S. District Court in Oregon ordered the Service to reconsider several aspects of the 1997 finding concerning listing of bull trout. The court directed the Service to consider whether listing of the bull trout was warranted throughout its range; whether listing was warranted throughout the coterminous United States; if the Service determined that listing throughout its range, or throughout the coterminous United States was not warranted, or is warranted but precluded; and whether listing of the Coastal-Puget Sound distinct population segment was warranted. The court subsequently directed the Service to prepare its response by June 12, 1998.

June 10, 1998

The Service published in the Federal Register a final rule to list the Klamath River and the Columbia River bull trout population segments as threatened under the Endangered Species Act (ESA) (63 FR 31647).

August 11, 1998

The Service published in the Federal Register an emergency-listing of the Jarbidge River (Idaho, Nevada) bull trout population segment as endangered after road crews from the Elko County Road Department destroyed 27 percent of the river's bull trout habitat while conducting unauthorized road construction activities (63 FR 42757).

April 8, 1999

The Service published a final rule in the Federal Register to list the Jarbidge River population of bull trout as threatened under the ESA (64 FR 17110).

November 1, 1999

The Service published a final rule in the Federal Register to list all bull trout in the coterminous United States as threatened (64 FR 58909).

November 29, 2002

The Service published in the Federal Register a notice of document availability for review and comment for the Draft Recovery Plan for the three of the five Distinct Population Segments of Bull Trout (Klamath River, Columbia River and Saint Mary-Belly River populations) (67 FR 71439).

November 29, 2002

The Service published in the Federal Register a proposed rule for the designation of critical habitat for the Klamath River and Columbia River distinct population segments of

bull trout and notice of availability of the draft recovery plan (67 FR 71235) for those populations.

June 25, 2004

The Service published in the Federal Register a proposed rule for the designation of critical habitat for the Jarbidge River, Coastal-Puget Sound and Saint Mary-Belly River populations of bull trout (69 FR 35768).

July 1, 2004

The Service published in the Federal Register a notice of document availability for review and comment for the draft Recovery Plan for the Coastal-Puget Sound (69 FR 39950) and Jarbidge (69 FR 39951) distinct population segments of bull trout.

October 6, 2004

The Service published a final rule in the Federal Register designation of critical habitat for the Klamath River and Columbia River populations of bull trout (69 FR 59995).

December 14, 2004

Alliance for the Wild Rockies et al filed a complaint challenging the adequacy of the final critical habitat designation for the Klamath River and Columbia River bull trout populations. Our motion for partial voluntary remand was subsequently granted by the court with a final rule due by September 15, 2005.

May 25, 2005

The Service published in the Federal Register a final rule to open the comment period for the proposed and final designation of critical habitat for the Klamath River and Columbia River populations of bull trout (70 FR 29998).

June 6, 2005

The Service published a notice clarifying the reopening until June 24, 2005, of the comment period for the proposed and final designation of critical habitat for the Klamath River and Columbia River bull trout populations (70 FR 32732).

May 3, 2005

The Service published a notice of the availability of the draft economic analysis (DEA) and reopening of a 30-day comment period until June 2, 2005 (70 FR 22835), for the Jarbidge River, Coastal-Puget Sound and Saint Mary-Belly River populations of bull trout.

June 27, 2005

U.S. District Judge Robert Jones extended the deadline for designating critical habitat for the Puget Sound-Coastal, Jarbidge and St. Mary-Belly River bull trout populations to September 15, 2005.

September 26, 2005

The Service published a final rule designating critical habitat for the Klamath River, Columbia River, Jarbidge River, Coastal-Puget Sound and Saint Mary-Belly River populations of bull trout (70 FR 56212).

January 5, 2006

Amended complaint filed by Alliance for the Wild Rockies and Friends of the Wild Swan challenging the Service's final critical habitat designation for bull trout (U.S. District Court of Oregon).

August 2006

Bull Trout 5-Year Review report not released due to two additional needs: Distinct Population Segment policy and affected states' questions and concerns regarding the status review process.

April 27, 2007

Oral arguments in the case before U.S. District Court, Oregon, Judge Robert Jones in Portland, Oregon.

July 2007

The Service asks affected state and federal agencies and tribes to participate in a Bull Trout 5-Year Review Collaboration Team to help with completion of the review.

April 2008

The Service completes the 5-year Review with two recommendations: Maintain “threatened” status for bull trout as currently listed and evaluate whether to designate multiple Distinct Population Segments (DPSs).

December 22, 2008

The Service notifies the court of its intent to review a December 15, 2008 Interior Department Inspector General Report disclosing irregularities in development of its 2005 bull trout final critical habitat designation.

March 23, 2009

The Service requests a voluntary remand of the 2005 final critical habitat rule to address irregularities in the rule-making process and outcome as identified by the 2008 Inspector General report.

July 1, 2009

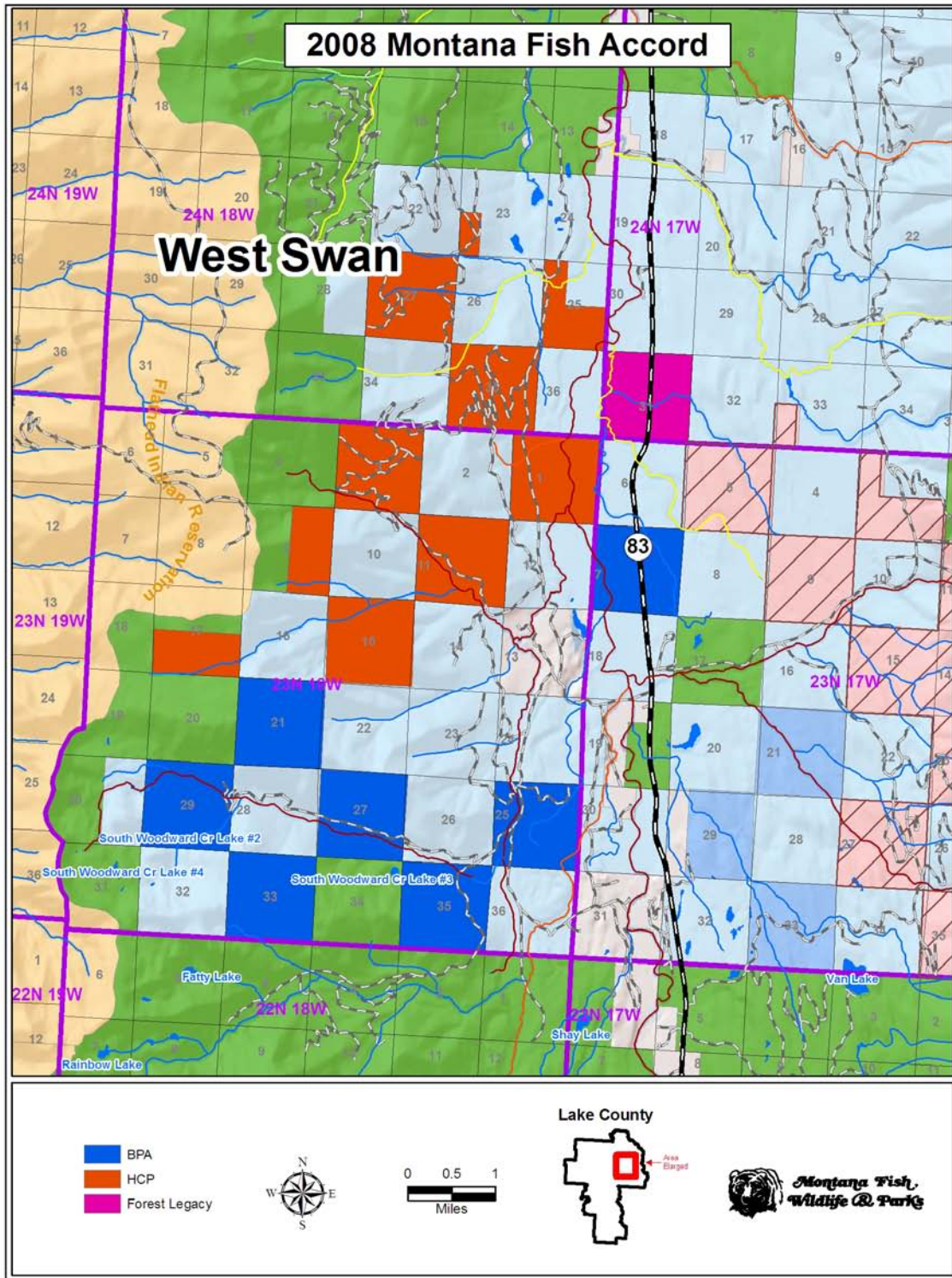
The court grants the Service’s request for a remand, and directs the Service to submit a proposed revision to the Federal Register by December 31, 2009, and a final designation by September 30, 2010. The 2005 designation will remain in effect until a revised designation is final.

January 13, 2010

The Service publishes the proposed critical habitat revision, a Justification document that includes Rationale for Why Habitat is Essential, and Documentation of Occupancy, and Draft Economic Analysis.

A 60-day public comment opens on publication date. Public informational meetings are arranged in five state (OR, WA, ID, MT, NV) during the month of February, 2010. One public hearing is scheduled for January 25, 2010 in Boise, Idaho.

Attachment 2: Proposed Swan Valley Acquisitions.



Red and blue squares west of highway 83 are project lands. At this point we propose to purchase a conservation easement on all of these available sections. BPA funding is anticipated to be used on the blue colored sections, with other funds used for the rest.

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